SENATE BILL No. 1852

Introduced by Committee on Judiciary (Senators Dunn (Chair), Ackerman, Escutia, and Kuehl)

April 6, 2006

An act to amend Sections 690, 801, 809, 853, 2435.1, 2571, 3078, 4052, 4507, 6126.3, 6156, 6157, 7161, 7302, 7582.20, 7591.19, 7830.1, 9855.6, 11004.5, 12606.2, 14492, 17086, 17206.1, 17508, 17539.3, 18625, 18720, 18830, 19613.2, 21669.1, 22701, 22901, 22915, 23426.5, and 25660 of the Business and Professions Code, to amend Sections 43.97, 51.4, 54.6, 56.21, 799.2.5, 846.1, 1363.04, 1363.07, 1761, 1786.10, 1788.2, 1789.37, 1812.85, 1812.106, 1812.306, 1812.501, 1834.8, 2945.3, 2945.9, 2954.7, 3052.5, 3262, and 3415 of, and to amend and renumber Section 1812.97 of, the Civil Code, to amend Sections 77, 94, 338, 417.10, 460.7, 1021.8, 1141.21, 1245.320, 1345, 1346, 1370, 1371, 1375, 1379, 1775.14, 1800, and 1985.6 of the Code of Civil Procedure, to amend Section 16101 of the Commercial Code, to amend Sections 118, 7312, 8724, 12663, 17104, and 25100.1 of the Corporations Code, to amend Sections 1753, 1762, 7002.5, 8275, 8363.5, 8484.75, 8498, 8669, 8825, 12117, 17625, 19980, 22121, 24618, 32255, 32255.1, 33551, 35105, 41500, 42238.4, 44210, 44929.23, 44944, 45127, 45168.5, 47610, 47610.5, 47660, 49030, 49434, 49561, 49565.2, 49565.4, 52052, 52055.57, 52055.605, 52055.625, 52124, 52165, 52295.35, 52740, 56441, 58407, 58520, 60200, 66070, 66406, 66609, 69539, 69640, 76234, 81383, 81450, 81645, 88167.5, 89241, 89503, 89750.5, 92300, 92611.7, 94985, 94990, 99156, and 100603 of the Education Code, to amend Sections 7154, 7854, 9086, 9096, 10225, and 15375 of the Elections Code, to amend Section 1560 of the Evidence Code, to amend Sections 274, 3046, 3121, 4905, 7605, and 9201 of the Family Code, to amend Sections 687, 1800, 5303, 6503, 7263, 7273, 7274, 7509, 7600, 12100, 14402, 18062, 18415.3, 21050, and 22304 of the Financial

Code, to amend Sections 854, 1122, 2120, 2125, 2127, 2150.4, 2765, 4190, 5653, 8277, 8278, 8494, 8495, 8610.7, 8615, 8841, 9023, 13007, and 15512 of the Fish and Game Code, and to amend Sections 3955, 4054, 5774.5, 13127.92, 14978.2, 19314, 30801, 36805, 39901, 42684, 52295, 52891.1, 62069, 73053, 73202, 75022, 77373, 77375, 77554, and 77941 of the Food and Agriculture Code, to amend Sections 800, 850.6, 905.3, 920, 925, 926.19, 965.1, 997.1, 998.2, 1151, 3515.7, 3539.5, 3543.1, 3549.1, 3572, 5906, 6254, 6254.26, 6577, 7072, 7509, 7520, 7901, 7907, 8902, 8652, 8894.1, 11007.6, 11014, 11030.1, 11030.2, 11031, 11125.7, 11125.8, 11270, 11275, 12467, 12807.5, 12838.1, 13300, 13332.09, 13905, 13972, 13973, 13974, 13974.1, 14084, 14670.4, 14682, 15202, 15492, 15815, 15952, 16302.1, 16304.6, 16366.3, 16383, 16431, 16585, 17051.5, 17201, 17520, 17553, 17556, 18708, 19583.5, 19583.51, 19792.5, 19815.4, 19816, 19816.4, 19816.6, 19879.1, 19999.2, 20035.6, 20094, 20163, 20462, 20805, 20808, 21095, 21223, 21265, 21752, 22100, 26749, 29965, 31461.1, 31469, 31470.25, 31485.12, 31585.1, 31691, 31691.1, 45002, 54957.1, 54999.5, 65050, 65852.9, 65971, 65973, 65974, 65979, 66000, 66017, 67401, 68058, 68059.15, 68503, 68506, 68511.3, 68543, 68543.5, 68543.8, 68565, 70622, 75560.4, 77202, 87102.6, 89513, 92201, 92251, 92268, and 92309 of, and to repeal Section 87104 of, the Government Code, to amend Sections 72.4, 303, 444, 504, 508, 773.2, 1176, and 6037.4 of the Harbors and Navigation Code, to amend Sections 1250.3, 1267.19, 1276.8, 1312, 1357.09, 1399.811, 1418.8, 1451, 1531.1, 1558, 1568.09, 1568.092, 1569.58, 1596.816, 1596.847, 1596.8865, 1596.8897, 1765.145, 4730.8, 11162.1, 11502, 11571.1, 12701, 13052, 17021.6, 18080.5, 19161, 19165, 19982, 25159.12, 25200.6, 25205.1, 25208.2, 25208.8, 25208.17, 25215.4, 25283.1, 25370, 33080.7, 33320.4, 33333.6, 33334.2, 33334.22, 33446, 33476, 33492.78, 33492.86, 35816, 38012, 39941, 40440.2, 40717.6, 42840, 43200.1, 43812, 43867, 44037, 44090, 44366, 50660.5, 50896, 50896.1, 50896.2, 51504, 52020, 53533, 101630, 105195, 105215, 105280, 107040, 107065, 107080, 108310, 109350, 109360, 111080, 112025, 112030, 113844, 113955, 114400, 115040, 115061, 115255, 116050, 116660, 117100, 120425, 120830, 120875, 121110, 121270, 121275, 121520, 122070, 127575, 129890, and 150204 of, and to repeal Section 113843 of, the Health and Safety Code, to amend Sections 134, 481.5, 676.2, 750.4, 1063.145, 1140.5, 1734.5, 1735, 1763.2, 1781.7, 1802.5, 1842, 1874.2, 1903, 10123.141, 10133.56, 10136, 10203.4, 10203.5,

10203.8, 10209, 10350.2, 11580.1, 11872, 12640.02, 12698.50, 12698.54, and 15039 of the Insurance Code, to amend Sections 98, 142.4, 226.4, 243, 270.6, 1182.6, 1289, 1301, 1302, 2686, 2855, 3364, 4753.5, 5277, 5307.1, 5907, 6315.3, 7384, and 7994 of the Labor Code, to amend Section 340 of the Military and Veterans Code, to amend Sections 171d, 186.2, 273.7, 290, 290.6, 652, 987.9, 1037.1, 1191.2, 1203.066, 1524, 1557, 2786, 2800, 3003, 4017.1, 4900, 4901, 4902, 4904, 4905, 4906, 5001, 5009, 5071, 5076.1, 6024, 11163, 11172, 12021, 12280, 13603, 13810, 13826.7, 13835.2, and 14030 of, and to repeal Section 13300.1 of, the Penal Code, to amend Sections 6108, 10240.5, 10329, 12183, 20105, 20118.4, 20133, 20407, 20448, 20450, 20451, 20452, 20456, 20487, 20522, 20563, 20582, 20688.2, 20853, 20894, 21020.8, 21040, 21071, 21471, and 21601 of, and to repeal the heading of Article 3 (commencing with Section 9201) of Chapter 9 of Part 1 of Division 2 of, the Public Contract Code, to amend Sections 2776, 4116, 4144, 4516.6, 4602.6, 5006.48, 5080.06, 5080.36, 5096.514, 5141.1, 5366, 5671, 6314, 6925.2, 8710, 9084, 21080.24, 21151.1, 21167.1, 25135, 25302.5, 26032, 26569.5, 29305, 29735, 30118.5, 30166, 30170, 30171.2, 30222.5, 30315.1, 30608, 30610.4, 30610.6, 30716, 31163, 31258, 32103, 33201, 33207.5, 42463, 42888, 42891, 43500, 44820, 49161, and 71081 of the Public Resources Code, to amend Sections 95.2, 531.7, 862, 2188.5, 2700, 4676, 4703.3, 6067, 6201.2, 6376.1, 6902.3, 9270, 11317, 11923, 13153, 17052.6, 19191, 20621, 23060, 23202, 23305b, 32364, 32475, 41120, 41176, 45304, 45451, 45872, 46442, 50124, and 50145 of the Revenue and Taxation Code, to amend Sections 156.3, 188.6, 2117, 6491.5, and 30162 of the Streets and Highways Code, to amend Sections 1222, 1256.5, 1262, 1855, 3254.5, 4701, 9608, 10200, 13002, and 13021 of the Unemployment Insurance Code, to amend Sections 1671, 2423, 11713.1, 12509, 12811, 14602.6, 15242, 17155, 23109, 24011.3, 27360, 29008, 35106, 40512, and 42001 of the Vehicle Code, to amend Sections 359, 5003, 8617.5, 10631, 12625, 12879.2, 12899.6, 12899.7, 12929.12, 13385.1, 13465, 13611, 13999.8, 20527.11, 23178, and 41027 of the Water Code, to amend Sections 241.1, 319, 1752.81, 1773, 1800, 1800.5, 2017, 3150, 3151, 4127, 4242, 4461, 4839, 5723.5, 7328, 7515, 10053, 11212, 11450.019, 11495.25, 14092.35, 14125.9, 14148.9, 14166.18, 14171.5, 14171.6, 14504, 15634, 15655.5, 16500.1, 16583, 16800.7, 17800, 18325.5, and 18906.5 of the Welfare and Institutions Code, and to amend Section 1 of Chapter 260 of the Statutes of 2004,

Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), Section 12 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951), Section 87 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), Section 26.9 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), Section 8 of the San Mateo County Flood Control District Act (Chapter 2108 of the Statutes of 1959), Section 26.7 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), Section 45 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), Section 510 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), Section 408 of Chapter 688 of, and Section 408 of Chapter 689 of, the Statutes of 1984, Section 602 of Chapter 1023 of the Statutes of 1982, Section 87 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), Section 5.5 of the Santa Barbara County Floor Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), and Sections 13 and 16 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970), relating to the maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1852, as introduced, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make technical, nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

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

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

SECTION 1. Section 690 of the Business and Professions Code is amended to read:

690. (a) Except as provided in Section 4601 of the Labor Code and Section 2627 of the Unemployment Insurance Code, neither the administrators, agents, or employees of any program supported, in whole or in part, by funds of the State of California, nor any state agency, county, or city of the State of California, nor any officer, employee, agent, or governing board of a state agency, county, or city in the performance of its, his, or her duty, duties, function, or functions, shall prohibit any person, who is entitled to vision care that may be rendered by either an optometrist or a physician and surgeon within the scope of his or her license, from selecting a duly licensed member of either profession to render the service, provided the member has not been removed or suspended from participation in the program for cause.

(b) Whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this section, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the Attorney General, the district attorney of the county, or any person aggrieved.

For purposes of this subdivision, "person aggrieved" means the person who seeks the particular medical or optometric services mentioned ~~herein~~ *in this section*, or the holder of any certificate who is discriminated against in violation of this section.

(c) Nothing contained in this section shall prohibit any agency operating a program of services, including, but not limited to, a program established pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code ~~or Chapter 10.5 (commencing with Section 6971), Chapter 11 (commencing with Section 7001), or Chapter 11.5 (commencing with Section 7041) of Division 6 of the Education Code~~, from preparing lists of healing arts licensees and requiring patients to select a licensee on the list as a condition to payment by the program for the services, except that if the lists are established and a particular service may be performed by either a physician and surgeon or an optometrist the list shall contain a sufficient number of licensees so as to assure the patients an adequate choice.

SEC. 2. Section 801 of the Business and Professions Code is amended to read:

801. (a) Every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency mentioned in subdivision (a) of Section 800 ~~(except~~, *except* as provided in subdivisions (b), (c), (d), and ~~(e))~~ *(e)*, shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act shall send a complete report to the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, as to any settlement over thirty thousand dollars ($30,000)~~; or~~, arbitration award of any amount~~:~~, or civil judgment of any amount, whether or not vacated by a settlement after entry of the judgment, that was not reversed on appeal~~:~~, of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. A settlement over thirty thousand dollars ($30,000) shall also be reported if the settlement is based on the licensee's negligence, error, or omission in practice, or by the licensee's rendering of unauthorized professional services, and a party to the settlement is a corporation, medical group, partnership, or other corporate entity in which the licensee has an ownership interest or that employs or contracts with the licensee. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto, within 30 days after service of the arbitration award on the parties, or within 30 days after the date of entry of the civil judgment.

(c) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with

Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter ~~60~~ *11* (commencing with Section ~~4825)~~ *4800)* shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(f) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), (c), or (d) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

(g) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

SEC. 3. Section 809 of the Business and Professions Code is amended to read:

809. (a) The Legislature hereby finds and declares the following:

(1) In 1986, Congress enacted the Health Care Quality Improvement Act of 1986 (Chapter 117 (commencing with Section 11101) Title 42, United States Code), to encourage physicians to engage in effective professional peer review, but giving each state the ~~opporunity~~ *opportunity* to "opt-out" of some of the provisions of the federal act.

(2) Because of deficiencies in the federal act and the possible adverse interpretations by the courts of the federal act, it is preferable for California to "opt-out" of the federal act and design its own peer review system.

(3) Peer review, fairly conducted, is essential to preserving the highest standards of medical practice.

(4) Peer review ~~which~~ *that* is not conducted fairly results in harm both to patients and healing arts practitioners by limiting access to care.

(5) Peer review, fairly conducted, will aid the appropriate state licensing boards in their responsibility to regulate and discipline errant healing arts practitioners.

(6) To protect the health and welfare of the people of California, it is the policy of the State of California to exclude, through the peer review mechanism as provided for by California law, those healing arts practitioners who provide substandard care or who engage in professional misconduct, regardless of the effect of that exclusion on competition.

(7) It is the intent of the Legislature that peer review of professional health care services be done efficiently, on an ongoing basis, *and* with an emphasis on early detection of potential quality problems and resolutions through informal educational interventions.

(8) Sections 809 to 809.8, inclusive, shall not affect the respective responsibilities of the organized medical staff or the governing body of an acute care hospital with respect to peer review in the acute care hospital setting. It is the intent of the Legislature that written provisions implementing Sections 809 to 809.8, inclusive, in the acute care hospital setting shall be included in medical staff bylaws ~~which~~ *that* shall be adopted by a vote of the members of the organized medical staff and ~~which~~ shall be subject to governing body approval, which approval shall not be withheld unreasonably.

(9) (A) The Legislature thus finds and declares that the laws of this state pertaining to the peer review of healing arts practitioners shall apply in lieu of Chapter 117 (commencing with Section 11101) of Title 42 of the United States Code, because the laws of this state provide a more careful articulation of the protections for both those undertaking peer review activity and those subject to review, and better ~~integrates~~ *integrate* public and private systems of peer review. Therefore, California exercises its right to opt out of specified provisions of the Health Care Quality Improvement Act relating to professional review actions, pursuant to ~~subparagraph (B) of paragraph (2) of subdivision (c) of Section 11111 of Chapter 117~~ *Section 11111(c)(2)(B)* of Title 42 of the United States Code. This election shall not affect the availability of any immunity under California law.

(B) The Legislature further declares that it is not the intent or purposes of Sections 809 to 809.8, inclusive, to opt out of any mandatory national data bank established pursuant to Subchapter II (commencing with Section 11131) of Chapter 117 of Title 42 of the United States Code.

(b) For the purpose of this section and Sections 809.1 to 809.8, inclusive, "healing arts practitioner" or "licentiate" means a physician and surgeon, podiatrist, clinical psychologist, or dentist; and "peer review body" means a peer review body as specified in paragraph (1) of subdivision (a) of Section 805, and includes any designee of the peer review body.

SEC. 4. Section 853 of the Business and Professions Code is amended to read:

853. (a) The Licensed Physicians and Dentists from Mexico Pilot Program is hereby created. This program shall allow up to

30 licensed physicians specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology, and up to 30 licensed dentists from Mexico to practice medicine or dentistry in California for a period not to exceed three years. The program shall also maintain an alternate list of program participants.

(b) The Medical Board of California shall issue three-year nonrenewable licenses to practice medicine to licensed Mexican physicians and the Dental Board of California shall issue three-year nonrenewable permits to practice dentistry to licensed Mexican dentists.

(c) Physicians from Mexico eligible to participate in this program shall comply with the following:

(1) Be licensed, certified or recertified, and in good standing in their medical specialty in Mexico. This certification or recertification shall be performed, as appropriate, by the Consejo Mexicano de ~~Ginocologia~~ *Ginecología* y Obstetricia, A.C., the Consejo Mexicano de ~~Certificacion~~ *Certificación* en Medicina Familiar, A.C., the Consejo Mexicano de Medicina Interna, A.C., or the Consejo Mexicano de ~~Certificacion~~ *Certificación* en ~~Pediatria~~ *Pediatría*, A.C.

(2) Prior to leaving Mexico, each physician shall have completed the following requirements:

(A) Passed the board review course with a score equivalent to that registered by United States applicants when passing a board review course for the United States certification examination in each of his or her specialty areas and passed an interview examination developed by the National Autonomous University of Mexico (UNAM) for each specialty area. Family practitioners who shall include obstetrics and gynecology in their practice shall also be required to have appropriately documented, as specified by United States standards, 50 live births. Mexican obstetricians and gynecologists shall be fellows in good standing of the American College of Obstetricians and Gynecologists.

(B) (i) Satisfactorily completed a six-month orientation program that addressed medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, and pharmacology differences. This orientation program shall be approved by the Medical Board of California to

ensure that it contains the requisite subject matter and meets appropriate California law and medical standards where applicable.

(ii) Additionally, Mexican physicians participating in the program shall be required to be enrolled in adult English-as-a-second-language (ESL) classes that focus on both verbal and written subject matter. Each physician participating in the program shall have transcripts sent to the Medical Board of California from the appropriate Mexican university showing enrollment and satisfactory completion of these classes.

(C) Representatives from the ~~National Autonomous University of Mexico (UNAM)~~ *UNAM* in Mexico and a medical school in good standing or a facility conducting an approved medical residency training program in California shall confer to develop a mutually agreed upon distant learning program for the six-month orientation program required pursuant to subparagraph (B).

(3) Upon satisfactory completion of the requirements in paragraphs (1) and (2), and after having received their three-year nonrenewable medical license, the Mexican physicians shall be required to obtain continuing education pursuant to Section 2190 ~~of the Business and Professions Code~~. Each physician shall obtain an average of 25 continuing education units per year for a total of 75 units for a full three years of program participation.

(4) Upon satisfactory completion of the requirements in paragraphs (1) and (2), the applicant shall receive a three-year nonrenewable license to work in nonprofit community health centers and shall also be required to participate in a six-month externship at his or her place of employment. This externship shall be undertaken after the participant has received a license and is able to practice medicine. The externship shall ensure that the participant is complying with the established standards for quality assurance of nonprofit community health centers and medical practices. The externship shall be affiliated with a medical school in good standing in California. Complaints against program participants shall follow the same procedures contained in the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

(5) After arriving in California, Mexican physicians participating in the program shall be required to be enrolled in

adult ~~English-as-a-second-language (ESL)~~ *ESL* classes at institutions approved by the Bureau of Private Post Secondary and Vocational Education or accredited by the Western Association of Schools and Colleges. These classes shall focus on verbal and written subject matter to assist a physician in obtaining a level of proficiency in English that is commensurate with the level of English spoken at community clinics where he or she will practice. The community clinic employing a physician shall submit documentation confirming approval of an ESL program to the ~~Medical Board of California~~ *board* for verification. Transcripts of satisfactory completion of the ESL classes shall be submitted to the Medical Board of California as proof of compliance with this provision.

(6) (A) Nonprofit community health centers employing Mexican physicians in the program shall be required to have medical quality assurance protocols and either be accredited by the Joint Commission on Accreditation of Health Care Organizations or have protocols similar to those required by the Joint Commission on Accreditation of Health Care Organizations. These protocols shall be submitted to the Medical Board of California prior to the hiring of Mexican physicians.

(B) In addition, after the program participant successfully completes the six-month externship program, a free standing health care organization that has authority to provide medical quality certification, including, but not limited to, health plans, hospitals, and the Integrated Physician Association, ~~shall be~~ *is* responsible for ensuring and overseeing the compliance of nonprofit community health centers medical quality assurance protocols, conducting site visits when necessary, and developing any additional protocols, surveys, or assessment tools to ensure that quality of care standards through quality assurance protocols are being appropriately followed by physicians participating in the program.

(7) Participating hospitals shall have the authority to establish criteria necessary to allow individuals participating in this three-year pilot program to be granted hospital privileges in their facilities.

(8) The Medical Board of California shall provide oversight review of both the implementation of this program and the evaluation required pursuant to subdivision (j). The board shall

consult with the medical schools applying for funding to implement and evaluate this program, executive and medical directors of nonprofit community health centers wanting to employ program participants, and hospital administrators who will have these participants practicing in their hospital, as it conducts its oversight responsibilities of this program and evaluation. Any funding necessary for the implementation of this program, including the evaluation and oversight functions, shall be secured from nonprofit philanthropic entities. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The ~~Medical Board of California~~ *board* shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities. The board shall, upon appropriation in the annual Budget Act, expend funds received from nonprofit philanthropic entities for this program.

(d) (1) Dentists from Mexico eligible to participate in this program shall comply with the following requirements or the requirements contained in paragraph (2):

(A) Be graduates from the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de ~~Odontologia)~~ *Odontología)*.

(B) Meet all criteria required for licensure in Mexico that is required and being applied by the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de ~~Odontologia)~~ *Odontología)*, including, but not limited to:

(i) A minimum grade point average.

(ii) A specified English language comprehension and conversational level.

(iii) Passage of a general examination.

(iv) Passage of an oral interview.

(C) Enroll and complete an orientation program that focuses on the following:

(i) Practical issues in pharmacology that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ii) Practical issues and diagnosis in oral pathology that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iii) Clinical applications that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iv) Biomedical sciences that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(v) Clinical history management that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vi) Special patient care that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vii) Sedation techniques that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(viii) Infection control guidelines which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ix) Introduction to health care systems in California.

(x) Introduction to community clinic operations.

(2) (A) Graduate within the three-year period prior to enrollment in the program, from a foreign dental school that has received provisional approval or certification by November of 2003 from the Dental Board of California under the Foreign Dental School Approval Program.

(B) Enroll and satisfactorily complete an orientation program that focuses on the health care system and community clinic operations in California.

(C) Enroll and satisfactorily complete a course taught by an approved foreign dental school on infection control approved by the Dental Board of California.

(3) Upon satisfactory completion to a competency level of the requirements in paragraph (1) or (2), dentists participating in the program shall be eligible to obtain employment in a nonprofit community health center pursuant to subdivision (f) within the structure of an extramural dental program for a period not to exceed three years.

(4) Dentists participating in the program shall be required to complete the necessary continuing education units required by the Dental Practice Act (Chapter 4 (commencing with Section 1600)).

(5) The program shall accept 30 participating dentists. The program shall also maintain an alternate list of program applicants. If an active program participant leaves the program for any reason, a participating dentist from the alternate list shall be chosen to fill the vacancy. Only active program participants shall be required to complete the orientation program specified in subparagraph (C) of paragraph (1).

(6) (A) Additionally, an extramural dental facility may be identified, qualified, and approved by the board as an adjunct to, and an extension of, the clinical and laboratory departments of an approved dental school.

(B) As used in this subdivision, "extramural dental facility" includes, but is not limited to, any clinical facility linked to an approved dental school for the purposes of monitoring or overseeing the work of a dentist licensed in Mexico participating in this program and that is employed by an approved dental school for instruction in dentistry that exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved dental school, and in which dental services are rendered. These facilities shall include nonprofit community health centers.

(C) Dental services provided to the public in these facilities shall constitute a part of the dental education program.

(D) Approved dental schools shall register extramural dental facilities with the board. This registration shall be accompanied by information supplied by the dental school pertaining to faculty supervision, scope of treatment to be rendered, arrangements for postoperative care, the name and location of the facility, the date operations shall commence at the facility, and a description of the equipment and facilities available. This information shall be supplemented with a copy of the agreement between the approved dental school and the affiliated institution establishing the contractual relationship. Any change in the information initially provided to the board shall be communicated to the board.

(7) The program shall also include issues dealing with program operations, and shall be developed in consultation by representatives of community clinics, approved dental schools, or the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de ~~Odontologia)~~ *Odontología)*.

(8) The Dental Board of California shall provide oversight review of the implementation of this program and the evaluation required pursuant to subdivision (j). The ~~dental~~ board shall consult with dental schools in California that have applied for funding to implement and evaluate this program and executive and dental directors of nonprofit community health centers wanting to employ program participants, as it conducts its oversight responsibilities of this program and evaluation. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The ~~Dental Board of California~~ *board* shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities.

(e) Nonprofit community health centers that employ participants shall be responsible for ensuring that participants are enrolled in local English-language instruction programs and that the participants attain English-language fluency at a level that would allow the participants to serve the English-speaking patient population when necessary and have the literacy level to communicate with appropriate hospital staff when necessary.

(f) Physicians and dentists from Mexico having met the applicable requirements set forth in subdivisions (c) and (d) shall be placed in a pool of candidates who are eligible to be recruited for employment by nonprofit community health centers in California, including, but not limited to, those located in the Counties of Ventura, Los Angeles, San Bernardino, Imperial, Monterey, San Benito, Sacramento, San Joaquin, Santa Cruz, Yuba, Orange, Colusa, Glenn, Sutter, Kern, Tulare, Fresno, Stanislaus, San Luis Obispo, and San Diego. The Medical Board of California shall ensure that all Mexican physicians participating in this program have satisfactorily met the

requirements set forth in subdivision (c) prior to placement at a nonprofit community health center.

(g) Nonprofit community health centers in the counties listed in subdivision (f) shall apply to the Medical Board of California and the Dental Board of California to hire eligible applicants who shall then be required to complete a six-month externship that includes working in the nonprofit community health center and a corresponding hospital. Once enrolled in this externship, and upon payment of the required fees, the Medical Board of California shall issue a three-year nonrenewable license to practice medicine and the Dental Board of California shall issue a three-year nonrenewable dental special permit to practice dentistry. For purposes of this program, the fee for a three-year nonrenewable license to practice medicine shall be nine hundred dollars ($900) and the fee for a three-year nonrenewable dental permit shall be five hundred forty-eight dollars ($548). A licensee or permitholder shall practice only in the nonprofit community health center that offered him or her employment and the corresponding hospital. This three-year nonrenewable license or permit shall be deemed to be a license or permit in good standing pursuant to the provisions of this chapter for the purpose of participation and reimbursement in all federal, state, and local health programs, including managed care organizations and health maintenance organizations.

(h) The three-year nonrenewable license or permit shall terminate upon notice by certified mail, return receipt requested, to the licensee's or permitholder's address of record, if, in the Medical Board of California or Dental Board of California's sole discretion, it has determined that either:

(1) The license or permit was issued by mistake.

(2) A complaint has been received by either board against the licensee or permitholder that warrants terminating the license or permit pending an investigation and resolution of the complaint.

(i) All applicable employment benefits, salary, and policies provided by nonprofit community health centers to their current employees shall be provided to medical and dental practitioners from Mexico participating in this pilot program. This shall include nonprofit community health centers providing malpractice insurance coverage.

(j) Beginning 12 months after this pilot program has commenced, an evaluation of the program shall be undertaken with funds provided from philanthropic foundations. The evaluation shall be conducted jointly by one medical school and one dental school in California and either ~~the National Autonomous University of Mexico~~ *UNAM* or a foreign dental school approved by the ~~board~~ *Dental Board of California*, in consultation with the Medical Board of California ~~and the Dental Board of California~~. If the evaluation required pursuant to this section does not begin within 15 months after the pilot project has commenced, the evaluation may be performed by an independent consultant selected by the Director of the Department of Consumer Affairs. This evaluation shall include, but not be limited to, the following issues and concerns:

(1) Quality of care provided by doctors and dentists licensed under this pilot program.

(2) Adaptability of these licensed practitioners to California medical and dental standards.

(3) Impact on working and administrative environment in nonprofit community health centers and impact on interpersonal relations with medical licensed counterparts in health centers.

(4) Response and approval by patients.

(5) Impact on cultural and linguistic services.

(6) Increases in medical encounters provided by participating practitioners to limited-English-speaking patient populations and increases in the number of limited-English-speaking patients seeking health care services from nonprofit community health centers.

(7) Recommendations on whether the program should be continued, expanded, altered, or terminated.

(8) Progress reports on available data listed shall be provided to the Legislature on achievable time intervals beginning the second year of implementation of this pilot program. An interim final report shall be issued three months before termination of this pilot program. A final report shall be submitted to the Legislature at the time of termination of this pilot program on all of the above data. The final report shall reflect and include how other initiatives concerning the development of culturally and linguistically competent medical and dental providers within

California and the United States are impacting communities in need of these health care providers.

(k) Costs for administering this pilot program shall be secured from philanthropic entities.

(*l*) Program applicants shall be responsible for working with the governments of Mexico and the United States in order to obtain the necessary three-year visa required for program participation.

SEC. 5. Section 2435.1 of the Business and Professions Code is amended to read:

2435.1. (a) In addition to the fees charged for the initial issuance or biennial renewal of a physician and surgeon's certificate pursuant to Section 2435, and at the time those fees are charged, the board shall charge each applicant or renewing licensee an additional twenty-five dollar ($25) fee for the purposes of this section.

(b) Payment of this twenty-five dollar ($25) fee shall be voluntary, ~~and shall be~~ paid at the time of application for initial licensure or biennial renewal, ~~the twenty-five dollar ($25) fee shall be~~ *and* due and payable along with the fee for the initial certificate or biennial renewal.

(c) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Office of Statewide Health Planning and Development to augment the local assistance line item of the annual Budget Act in support of the Song-Brown Family Physician Training Act ~~(Chapter 1 (commencing with Section 69270) of Part 42 of the Education~~ *(Article 1 (commencing with Section 128200) of Chapter 4 of Part 3 of Division 107 of the Health and Safety* Code).

SEC. 6. Section 2571 of the Business and Professions Code is amended to read:

2571. (a) An occupational therapist licensed pursuant to this chapter and certified by the board in the use of physical agent modalities may apply topical medications prescribed by the patient's physician and surgeon, certified nurse-midwife pursuant to Section 2746.51, nurse practitioner pursuant to Section ~~2936.1~~ *2836.1*, or physician assistant pursuant to Section 3502.1, if the licensee complies with regulations adopted by the board pursuant to this section.

(b) The board shall adopt regulations implementing this section, after meeting and conferring with the Medical Board of California, the California State Board of Pharmacy, and the Physical Therapy Board of California, specifying those topical medications applicable to the practice of occupational therapy~~,~~ and protocols for their use.

(c) Nothing in this section shall be construed to authorize an occupational therapist to prescribe medications.

SEC. 7. Section 3078 of the Business and Professions Code is amended to read:

3078. *(a)* It is unlawful to practice optometry under a false or assumed name, or to use a false or assumed name in connection with the practice of optometry, or to make use of any false or assumed name in connection with the name of a person licensed pursuant to this chapter. However, the board may issue written permits authorizing an individual optometrist or an optometric group or optometric corporation to use a name specified in the permit in connection with its practice if, and only if, the board finds to its satisfaction ~~that~~ *all of the following*:

~~(a)~~

(1) The place or establishment, or the portion thereof, in which the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at that place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants~~; provided, however, that where~~. *However, if* the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply.

~~(b)~~

(2) The name under which the applicant or applicants propose to operate is in the judgment of the board not deceptive or inimical to enabling a rational choice for the consumer public and contains at least one of the following designations: "optometry" or ~~"optometric"; provided, however, that where~~ "*optometric*." *However, if* the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply. In no case shall the name under which the applicant or applicants propose to operate contain the

name or names of any of the optometrists practicing in the community clinic.

~~(c)~~

(3) The names of all optometrists practicing at the location designated in the application are displayed in a conspicuous place for the public to see, not only at the location, but also in any advertising permitted by law.

~~(d)~~

(4) No charges ~~which~~ *that* could result in revocation or suspension of an optometrist's license to practice optometry are pending against any optometrist practicing at the location.

(b) Permits issued under this section by the board shall expire and become invalid unless renewed at the times and in the manner provided in Article 7 (commencing with Section 3145) for the renewal of licenses issued under this chapter. The board may charge an annual fee, not to exceed ten dollars ($10) for the issuance or renewal of each permit.

~~Any~~

(c) A permit issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit, other than under *paragraph (4) of* subdivision ~~(d)~~ *(a)*, is no longer being fulfilled by the individual optometrist, optometric corporation, or optometric group to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

~~In the event~~

(d) If the board revokes or suspends the ~~licenses~~ *license* to practice optometry of an individual optometrist or any member of a corporation or group to whom a permit has been issued under this section, the revocation or suspension shall also constitute revocation or suspension, as the case may be, of the permit.

SEC. 8. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may *do any of the following*:

(1) Furnish a reasonable quantity of compounded medication to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(A) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(B) Ordering drug therapy-related laboratory tests.

(C) Administering drugs and biologicals by injection pursuant to a prescriber's order ~~(the~~. *The* administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care ~~facility)~~ *facility*.

(D) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(5) (A) Perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance, as applicable, with policies, procedures, or protocols of that facility, the home health agency, the licensed clinic, the health care service plan, or that physician, in accordance with subparagraph (C):

(i) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(ii) Ordering drug therapy-related laboratory tests.

(iii) Administering drugs and biologicals by injection pursuant to a prescriber's order ~~(the~~. *The* administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care ~~facility)~~ *facility*.

(iv) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the individual patient's treating prescriber, and in accordance with

the policies, procedures, or protocols of the health care facility, home health agency, licensed clinic, health care service plan, or physician. Adjusting the drug regimen does not include substituting or selecting a different drug, except as authorized by the protocol. The pharmacist shall provide written notification to the patient's treating prescriber, or enter the appropriate information in an electronic patient record system shared by the prescriber, of any drug regimen initiated pursuant to this clause within 24 hours.

(B) A patient's treating prescriber may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist.

(C) The policies, procedures, or protocols referred to in this paragraph shall be developed by health care professionals, including physicians, pharmacists, and registered nurses, and, at a minimum, meet all of the following requirements:

(i) Require that the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. The multidisciplinary group shall determine the appropriate participation of the pharmacist and the direct care registered nurse.

(ii) Require that the medical records of the patient be available to both the patient's treating prescriber and the pharmacist.

(iii) Require that the procedures to be performed by the pharmacist relate to a condition for which the patient has first been seen by a physician.

(iv) Except for procedures or functions provided by a health care facility, a licensed clinic in which there is physician oversight, or a provider who contracts with a licensed health care plan with regard to the care or services provided to the enrollees of that health care service plan, require the procedures to be performed in accordance with a written, patient-specific protocol approved by the treating or supervising physician. Any change, adjustment, or modification of an approved preexisting treatment or drug therapy shall be provided in writing to the treating or supervising physician within 24 hours.

(6) Manufacture, measure, fit to the patient, or sell and repair dangerous devices or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(7) Provide consultation to patients and professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals.

(8) (A) Furnish emergency contraception drug therapy in accordance with either of the following:

(i) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(ii) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American College of Obstetricians and Gynecologists, the California ~~Pharmacist~~ *Pharmacists* Association, and other appropriate entities. Both the board and the Medical Board of California shall have authority to ensure compliance with this clause, and both boards are specifically charged with the enforcement of this provision with respect to their respective licensees. Nothing in this clause shall be construed to expand the authority of a pharmacist to prescribe any prescription medication.

(B) Prior to performing a procedure authorized under this paragraph, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(C) A pharmacist, pharmacist's employer, or pharmacist's agent may not directly charge a patient *a* separate consultation fee for emergency contraception drug therapy services initiated pursuant to this paragraph, but may charge an administrative fee not to exceed ten dollars ($10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this subparagraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent, and a health care service plan or insurer. Patients who are insured or covered and

receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. ~~The provisions of this~~ *This* subparagraph shall cease to be operative for dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(D) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1 of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this paragraph.

(b) (1) Prior to performing any procedure authorized by paragraph (4) of subdivision (a), a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

(2) Prior to performing any procedure authorized by paragraph (5) of subdivision (a), a pharmacist shall have either (A) successfully completed clinical residency training or (B) demonstrated clinical experience in direct patient care delivery.

(3) For each emergency contraception drug therapy initiated pursuant to paragraph (8) of subdivision (a), the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. ~~The provisions of this~~ *This* section ~~do~~ *does* not preclude the use of existing publications developed by nationally recognized medical organizations.

(c) A pharmacist who is authorized to issue an order to initiate or adjust a controlled substance therapy pursuant to this section shall personally register with the federal Drug Enforcement Administration.

(d) Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

(e) Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 9. Section 4507 of the Business and Professions Code is amended to read:

4507. This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter 17 (commencing with Section 9000) of Division 3.

(f) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2.

(g) Teachers credentialed pursuant to ~~Chapter 1.5 (commencing with Section 13101) of Division 10~~ *Article 1 (commencing with Section 44200) of Chapter 2 of Part 25* of the Education Code.

(h) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

(i) Art therapists, dance therapists, music therapists, and recreation therapists, as defined in Division 5 (commencing with Section 70001) of Title 22 of the California ~~Administrative~~ Code *of Regulations*, who are personnel of health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(j) Any other categories of persons the board determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because they are deemed by statute or by regulations contained in the California ~~Administrative~~ Code *of Regulations* to be adequately trained in their respective occupations. The exemptions shall apply only to a given specialized area of training within the specific discipline for which the exemption is granted.

SEC. 10. Section 6126.3 of the Business and Professions Code is amended to read:

6126.3. (a) In addition to any criminal penalties pursuant to Section 6126 or to any contempt proceedings pursuant to Section 6127, the courts of the state shall have the jurisdiction provided in this section when a person advertises or holds himself or herself out as practicing or entitled to practice law, or otherwise practices law, without being an active member of the State Bar or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so.

(b) The State Bar, or the superior court on its own motion, may make application to the superior court for the county where the person described in subdivision (a) maintains or more recently has maintained his or her principal office for the practice of law or where he or she resides, for assumption by the court of jurisdiction over the practice to the extent provided in this section. In any proceeding under this section, the State Bar shall be permitted to intervene and to assume primary responsibility for conducting the action.

(c) An application made pursuant to subdivision (b) shall be verified, and shall state facts showing all of the following:

(1) Probable cause to believe that the facts set forth in subdivision (a) of Section 6126 have occurred.

(2) The interest of the applicant.

(3) Probable cause to believe that the interests of a client or of an interested person or entity will be prejudiced if the proceeding is not maintained.

(d) The application shall be set for hearing, and an order to show cause shall be issued directing the person to show cause why the court should not assume jurisdiction over the practice as provided in this section. A copy of the application and order to show cause shall be served upon the person by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the person either at the address at which he or she maintains, or more recently has maintained, his or her principal office or at the address where he or she resides. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days

if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the State Bar is not the applicant, copies shall also be served upon the Office of the Chief Trial Counsel of the State Bar in similar manner at the time of service on the person who is the subject of the application. The court may prescribe additional or alternative methods of service of the application and order to show cause, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided herein.

(e) If the court finds that the facts set forth in subdivision (a) of Section 6126 have occurred and that the interests of a client or an interested person or entity will be prejudiced if the proceeding provided herein is not maintained, the court may make an order assuming jurisdiction over the person's practice pursuant to this section. If the person to whom the order to show cause is directed does not appear, the court may make its order upon the verified application or upon such proof as it may require. Thereupon, the court shall appoint one or more active members of the State Bar to act under its direction to mail a notice of cessation of practice, pursuant to subdivision (g), and may order those appointed attorneys to do one or more of the following:

(1) Examine the files and records of the practice and obtain information as to any pending matters that may require attention.

(2) Notify persons and entities who appear to be clients of the person of the occurrence of the event or events stated in subdivision (a) of Section 6126, and inform them that it may be in their best interest to obtain other legal counsel.

(3) Apply for an extension of time pending employment of legal counsel by the client.

(4) With the consent of the client, file notices, motions, and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.

(5) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of the event or events.

(6) Arrange for the surrender or delivery of clients' papers or property.

(7) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected person's practice.

(8) Do any other acts that the court may direct to carry out the purposes of this section.

The court shall have jurisdiction over the files and records and over the practice of the affected person for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction. The court shall provide a copy of any order issued pursuant to this section to the Office of the Chief Trial Counsel of the State Bar.

(f) Anyone examining the files and records of the practice of the person described in subdivision (a) shall observe any lawyer-client privilege under Sections 950 and 952 of the Evidence Code and shall make disclosure only to the extent necessary to carry out the purposes of this section. That disclosure shall be a disclosure that is reasonably necessary for the accomplishment of the purpose for which the person described in subdivision (a) was consulted. The appointment of a member of the State Bar pursuant to this section shall not affect the lawyer-client privilege, which privilege shall apply to communications by or to the appointed members to the same extent as it would have applied to communications by or to the person described in subdivision (a).

(g) The notice of cessation of law practice shall contain any information that may be required by the court, including, but not limited to, the finding by the court that the facts set forth in subdivision (a) of Section 6126 have occurred and that the court has assumed jurisdiction of the practice. The notice shall be mailed to all clients, to opposing counsel, to courts and agencies in which the person has pending matters with an identification of the matter, to the Office of the Chief Trial Counsel of the State Bar, and to any other person or entity having reason to be informed of the court's assumption of the practice.

(h) Nothing in this section shall authorize the court or an attorney appointed by it pursuant to this section to approve or disapprove of the employment of legal counsel, to fix terms of legal employment, or to supervise or in any way undertake the conduct of the practice, except to the limited extent provided by paragraphs (3) and (4) of subdivision (e).

(i) Unless court approval is first obtained, neither the attorney appointed pursuant to this section, nor his or her corporation, nor any partner or ~~associates~~ *associate* of the attorney shall accept employment as an attorney by any client of the affected person on any matter pending at the time of the appointment. Action taken pursuant to paragraphs (3) and (4) of subdivision (e) shall not be deemed employment for purposes of this subdivision.

(j) Upon a finding by the court that it is more likely than not that the application will be granted and that delay in making the orders described in subdivision (e) will result in substantial injury to clients or to others, the court, without notice or upon notice as it shall prescribe, may make interim orders containing any provisions that the court deems appropriate under the circumstances. Such an interim order shall be served in the manner provided in subdivision (d) and, if the application and order to show cause have not yet been served, the application and order to show cause shall be served at the time of serving the interim order.

(k) No person or entity shall incur any liability by reason of the institution or maintenance of a proceeding brought under this section. No person or entity shall incur any liability for an act done or omitted to be done pursuant to order of the court under this section. No person or entity shall be liable for failure to apply for court jurisdiction under this section. Nothing in this section shall affect any obligation otherwise existing between the affected person and any other person or entity.

(*l*) An order pursuant to this section is not appealable and shall not be stayed by petition for a writ, except as ordered by the superior court or by the appellate court.

(m) A member of the State Bar appointed pursuant to this section shall serve without compensation. However, the member may be paid reasonable compensation by the State Bar in cases where the State Bar has determined that the member has devoted extraordinary time and services that were necessary to the performance of the member's duties under this article. All payments of compensation for time and services shall be at the discretion of the State Bar. Any member shall be entitled to reimbursement from the State Bar for necessary expenses incurred in the performance of the member's duties under this article. Upon court approval of expenses or compensation for

time and services, the State Bar shall be entitled to reimbursement therefor from the person described in subdivision (a) or his or her estate.

SEC. 11. Section 6156 of the Business and Professions Code is amended to read:

6156. (a) Any individual, partnership, association, corporation, or other entity, including, but not limited to, any person or entity having an ownership interest in a lawyer referral service, ~~which~~ *that* engages, has engaged, or proposes to engage in violations of Section 6155, shall be liable for a civil penalty as defined in Sections 17206, 17206.1, and 17536, respectively, which shall be assessed and recovered in a civil action brought:

(1) In the manner specified in subdivision (a) of Section 17206 or Section 17536.

(2) By the State Bar of California.

(b) If the action is brought pursuant to subdivision (a), the court shall determine the reasonable expenses, if any, incurred by the State Bar in its investigation and prosecution of the action. In these cases, before any penalty collected is paid out pursuant to subdivision (b) of Section 17206 or *Section* 17536, the amount of the reasonable expenses incurred by the State Bar shall be paid to the State Bar and shall be deposited and used as provided in subdivision (c).

(c) If the action is brought pursuant to paragraph (2) of subdivision (a), the civil penalty shall be paid to the State Bar and shall be deposited into a special fund to be used first for the investigation and ~~prosection~~ *prosecution* of other such cases by the State Bar, with any excess to be used for the investigation and prosecution of attorney discipline cases.

SEC. 12. Section 6157 of the Business and Professions Code is amended to read:

6157. As used in this article, the following definitions apply:

(a) "Member" means a member in good standing of the State Bar and includes any agent of the member and any law firm or law corporation doing business in the State of California.

(b) "Lawyer" means a member of the State Bar or a person who is admitted in good standing and eligible to practice before the bar of any United States court or the highest court of the District of Columbia or any state, territory, or insular possession of the United States, or is licensed to practice law in, or is

admitted in good standing and eligible to practice before the bar of the highest court of, a foreign country or any political subdivision thereof, and includes any agent of the lawyer ~~or~~, law firm, or law corporation doing business in the ~~this~~ state.

(c) "Advertise" or "advertisement" means any communication, disseminated by television or radio, by any print medium, including, but not limited to, newspapers and billboards, or by means of a mailing directed generally to members of the public and not to a specific person, that solicits employment of legal services provided by a member, and is directed to the general public and is paid for by, or on the behalf of, an attorney.

(d) "Electronic medium" means television, radio, or computer networks.

SEC. 13. Section 7161 of the Business and Professions Code is amended to read:

7161. It is a misdemeanor for any person to engage in any of the following acts, the commission of which shall be cause for disciplinary action against any licensee or applicant:

(a) Using false, misleading, or deceptive advertising as an inducement to enter into any contract for a work of improvement, including, but not limited to, any home improvement contract, whereby any member of the public may be misled or injured.

(b) Making any substantial misrepresentation in the procurement of a contract for a home improvement or other work of improvement or making any false promise of *a* character likely to influence, persuade, or~~,~~ induce any person to enter into ~~such a~~ *the* contract.

(c) Any fraud in the execution of, or in the material alteration of, any contract, trust deed, mortgage, promissory note, or other document incident to a home improvement transaction or other transaction involving a work of improvement.

(d) Preparing or accepting any trust deed, mortgage, promissory note, or other evidence of indebtedness upon the obligations of a home improvement transaction or other transaction for a work of improvement with knowledge that it specifies a greater monetary obligation than the consideration for the improvement work, which consideration may be a time sale price.

(e) Directly or indirectly publishing any advertisement relating to home improvements or other works of improvement ~~which~~

that contains an assertion, representation, or statement of fact ~~which~~ *that* is false, deceptive, or misleading, or by any means advertising or purporting to offer to the general public ~~any such~~ *this* improvement work with the intent not to accept contracts for the particular work or at the price ~~which~~ *that* is advertised or offered to the public, except that any advertisement ~~which~~ *that* is subject to and complies with the existing rules, regulations, or guides of the Federal Trade Commission shall not be deemed false, deceptive, or misleading.

(f) Any person who violates subdivision (b), (c), (d), or (e) as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution~~,~~ and imprisonment as authorized by this section, the court may impose a fine of not less than five hundred dollars ($500) nor more than twenty-five thousand dollars ($25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

SEC. 14. Section 7302 of the Business and Professions Code is amended to read:

7302. The following definitions shall apply for purposes of this chapter:

(a) "Department" means the Department of Consumer Affairs.

(b) "Director" means the Director of Consumer Affairs.

(c) "Board" or "bureau" means the State Board of Barbering and Cosmetology.

(d) "Executive ~~officer~~ *officer"* means the executive officer of the State Board of Barbering and Cosmetology.

SEC. 15. Section 7582.20 of the Business and Professions Code is amended to read:

7582.20. (a) Every advertisement by a licensee soliciting or advertising business shall contain his or her name, address, and license number as they appear in the records of the bureau. For

the purpose of this section, "advertisement" includes any business card, ~~stationary~~ *stationery*, brochure, flyer, circular, newsletter, fax form, printed or published paid advertisement in any media form, or telephone book listing. Every advertisement by a licensee soliciting or advertising the licensee's business shall contain his or her business name, business address or business telephone number, and license number, as they appear in the records of the bureau.

(b) The director may assess a fine of two hundred fifty dollars ($250) per violation of subdivision (a).

SEC. 16. Section 7591.19 of the Business and Professions Code is amended to read:

7591.19. (a) *(1)* An alarm company operator, qualified manager, or alarm agent may request a review by the Alarm Company Operator Disciplinary Review Committee to contest the assessment of an administrative fine or to appeal a denial, revocation, or ~~suspenison~~ *suspension* unless the denial or suspension is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or in accordance with Section 7591.8 *of this code*.

(2) A request for a review shall be by written notice to the bureau within 30 days of the issuance of the citation and assessment, denial, or suspension.

(3) Following a review by the disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.

(4) If the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee, he or she may request a hearing as outlined in subdivision (b). A request for a hearing following a decision by the disciplinary review committee shall be by written notice to the bureau within 30 days of the committee's decision.

(5) If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

(b) *(1)* An alarm company operator, qualified manager, or alarm agent may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she contests an assessment of an administrative fine, or to appeal a denial, suspension, or

revocation. A hearing may also be requested if the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee.

(2) A request for a hearing shall be by written notice to the bureau within 30 days of the issuance of the decision by the review committee. A hearing pursuant to this subdivision shall be available only after a review by the disciplinary review committee.

SEC. 17. Section 7830.1 of the Business and Professions Code is amended to read:

7830.1. After one year following the effective date of this section, it shall be unlawful for anyone other than a geophysicist registered under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a registered geophysicist, professional geophysicist, or registered certified specialty geophysicist, or to use in any manner the title "registered ~~geophysicist,~~ *geophysicist,*" "professional geophysicist," or the title of any registered certified specialty geophysicist unless registered, or registered and certified, under this chapter.

SEC. 18. Section 9855.6 of the Business and Professions Code is amended to read:

9855.6. Where a service ~~contract holder~~ *contractholder* cancels a service contract in accordance with ~~the provisions of~~ Section 1794.41 of the Civil Code and the refund due is not paid to the service ~~contract holder~~ *contractholder* or credited to his or her account within 30 days after the service contractor receives written notice of cancellation, the amount of the required refund or credit shall bear interest, payable to the service contractholder, at the rate of 10 percent per annum for each additional 30 days or fraction thereof.

SEC. 19. Section 11004.5 of the Business and Professions Code is amended to read:

11004.5. In addition to any provisions of Section 11000 ~~of this code~~, the reference ~~therein~~ *in this code* to "subdivided lands" and "subdivision" shall include all of the following:

(a) Any planned development, as defined in Section 11003 ~~of this code~~, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004 ~~of this code~~, containing five or more apartments.

(c) Any condominium project containing five or more condominiums, as defined in Section 783 of the Civil Code.

(d) Any stock cooperative as defined in Section 11003.2, including any legal or beneficial interests therein, having or intended to have five or more shareholders.

(e) Any limited-equity housing cooperative, as defined in Section 11003.4.

(f) In addition, the following interests shall be subject to ~~the provisions of~~ this chapter and the regulations of the commissioner adopted pursuant thereto:

(1) Any accompanying memberships or other rights or privileges created in, or in connection with, any of the forms of development referred to in subdivision (a), (b), (c), (d), *or* (e)~~, or (f) above~~ by any deeds, conveyances, leases, subleases, assignments, declarations of restrictions, articles of incorporation, bylaws, or contracts applicable thereto.

(2) Any interests or memberships in any owners' association as ~~described~~ *defined* in Section ~~11003.1~~ *1351 of the Civil Code*, created in connection with any of the forms of the development referred to in subdivision (a), (b), (c), (d), *or* (e)~~, or (f) above~~.

(g) Notwithstanding this section, time-share plans, exchange programs, incidental benefits, and ~~short term~~ *short-term* product subject to Chapter 2 (commencing with Section 11210) ~~of Part 2 of Division 4 of the Business and Professions Code~~ are not "subdivisions" or "subdivided lands" subject to this chapter.

SEC. 20. Section 12606.2 of the Business and Professions Code is amended to read:

12606.2. (a) This section applies to food containers subject to Section 403 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 (d)), and Section 100.100 of Title 21 of the Code of Federal Regulations. Section 12606 does not apply to food containers subject to this section.

(b) No food containers shall be made, formed, or filled as to be misleading.

(c) A container that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between the actual capacity of a container and the volume of product contained therein. Nonfunctional slack fill is the empty

space in a package that is filled to less than its capacity for reasons other than the following:

(1) Protection of the contents of the package.

(2) The requirements of the machines used for enclosing the contents in the package.

(3) Unavoidable product settling during shipping and handling.

(4) The need for the package to perform a specific function, such as where packaging plays a role in the preparation or consumption of a food, if that function is inherent to the nature of the food and is clearly communicated to consumers.

(5) The fact that the product consists of a food packaged in a reusable container where the container is part of the presentation of the food and has value that is both significant in proportion to the value of the product and independent of its function to hold the food, such as a gift product consisting of a food or foods combined with a container that is intended for further use after the food is consumed or durable commemorative or promotional packages.

(6) Inability to increase the level of fill or to further reduce the size of the package, such as where some minimum package size is necessary to accommodate required food labeling exclusive of any vignettes or other nonmandatory designs or label information, discourage pilfering, facilitate handling, or accommodate ~~tamper-resistent~~ *tamper-resistant* devices.

(d) This section shall be interpreted consistent with the comments by the United States Food and Drug Administration on the regulations contained in Section 100.100 of Title 21 of the Code of Federal Regulations, interpreting Section 403(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(d)), as those comments are reported on pages 64123 to 64137, inclusive, of Volume 58 of the Federal Register.

~~(d)~~

(e) If the requirements of this section do not impose the same requirements as are imposed by Section 403(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. ~~343(d)~~ *343(d))*, or any regulation promulgated pursuant thereto, then this section is not operative to the extent that it is not identical to the federal requirements, and for this purpose those federal requirements are

incorporated into this section and shall apply as if they were set forth in this section.

~~(e)~~

(f) Any sealer may seize any container that is in violation of this section and the contents of the container. By order of the ~~municipal or~~ superior court of the city or county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon any conditions that the court may impose to ensure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner thereof if the owner furnishes proper facilities for the return.

SEC. 21. Section 14492 of the Business and Professions Code is amended to read:

14492. As used in this article, the following terms have the meanings set forth in this section unless the context otherwise requires:

(a) "Organization" includes any lodge, order, beneficial association, fraternal or beneficial society or association, historical, military, or veterans organization, labor union, or any other similar society, organization, or association or degree, branch, subordinate lodge, or auxiliary thereof.

(b) "Name and Ownership." Name is that name ~~which~~ *that* has first been adopted and used by an organization within or beyond the limits of this ~~State~~ *state*, which name has been registered in the Office of the Secretary of State, and the name of any organization ~~which~~ *that* has complied with ~~the provisions of Division 3, Part 4, Title 10, Chapter 2, of the Civil Code of the State of California~~ *Chapter 5 (commencing with Section 17900) of Part 3 of Division 7*, unless ~~such~~ *the* name conflicts with a name duly registered in the Office of the Secretary of State prior to the compliance with ~~such~~ *those* provisions ~~of the Civil Code~~, and any organization ~~which~~ *that* has so first adopted and used ~~such~~ *the* name is its original owner.

SEC. 22. Section 17086 of the Business and Professions Code is amended to read:

17086. No information obtained under ~~any provision of~~ this article, or under ~~Part 4, Title 6, Chapter 2~~ *Title 4 (commencing with Section 2016.010) of Part 4* of the Code of Civil Procedure, may be used against any ~~such~~ party, or any ~~such~~ witness, as a

basis for a misdemeanor or felony prosecution in any court of this ~~State~~ *state*.

SEC. 23. Section 17206.1 of the Business and Professions Code is amended to read:

17206.1. (a) *(1)* In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

(2) Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment ~~which~~ *that* substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; ~~muscoloskeletal~~ *musculoskeletal*; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. ~~The term "physical~~

"*Physical* or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) Any court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person any money or property, real or personal, which may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

SEC. 24. Section 17508 of the Business and Professions Code is amended to read:

17508. (a) It shall be unlawful for any person doing business in California and advertising to consumers in California to make any false or misleading advertising claim, including claims that

(1) purport to be based on factual, objective, or clinical evidence, ~~that~~ (2) compare the product's effectiveness or safety to that of other brands or products, or ~~that~~ (3) purport to be based on any fact.

(b) Upon written request of the Director of Consumer Affairs, the Attorney General, any city attorney, or any district attorney, any person doing business in California and in whose behalf advertising claims are made to consumers in California, including claims that (1) purport to be based on factual, objective, or clinical evidence, ~~that~~ (2) compare the product's effectiveness or safety to that of other brands or products, or ~~that~~ (3) purport to be based on any fact, shall provide to the department or official making the request evidence of the facts on which ~~such~~ *the* advertising claims are based. ~~Any such~~ *The* request shall be made within one year of the last day on which ~~such~~ *the* advertising claims were made.

Any city attorney or district attorney who makes a request pursuant to this subdivision shall give prior notice of ~~such~~ *the* request to the Attorney General.

(c) The Director of Consumer Affairs, Attorney General, any city attorney, or any district attorney may, upon failure of an advertiser to respond by adequately substantiating the claim within a reasonable time, or if ~~such~~ *the* Director of Consumer Affairs, Attorney General, city attorney, or district attorney shall have reason to believe that ~~any such~~ *the* advertising claim is false or misleading, do either or both of the following: ~~(1) seek~~

(1) Seek an immediate termination or modification of the claim by the person in accordance with Section 17535~~, (2) disseminate~~.

(2) Disseminate information, taking due care to protect legitimate trade secrets, concerning the veracity of ~~such~~ *the* claims~~,~~ or why ~~such~~ *the* claims are misleading~~,~~ to the consumers of this state.

(d) The relief provided for in subdivision (c) is in addition to any other relief ~~which~~ *that* may be sought for a violation of this chapter. Section 17534 shall not apply to violations of this section.

(e) Nothing in this section shall be construed to hold any newspaper publisher or radio or television broadcaster liable for publishing or broadcasting any advertising claims referred to in

subdivision (a), unless ~~such~~ *the* publisher or broadcaster is the person making ~~such~~ *the* claims.

(f) The plaintiff shall have the burden of proof in establishing any violation of this section.

(g) If an advertisement is in violation of subdivision (a) and Section 17500, the court shall not impose a separate civil penalty pursuant to Section 17536 for the violation of subdivision (a) and the violation of Section 17500 but shall impose a civil penalty for the violation of either subdivision (a) or Section 17500.

SEC. 25. Section 17539.3 of the Business and Professions Code is amended to read:

17539.3. (a) Sections 17539.1 and 17539.2 do not apply to a game conducted to promote the sale of an employer's product or service by his or her employees, when those employees are the sole eligible participants.

(b) As used in Sections 17539.1 and 17539.2, "person" includes *a* firm, corporation, or association, but does not include any charitable trust, corporation, or other organization exempted from taxation under Section 23701d of the Revenue and Taxation Code or Section 501(c) of the Internal Revenue Code ~~of 1954~~.

(c) Nothing in Sections 17539 to 17539.2, inclusive, shall be construed to permit any contest or any series of contests or any act or omission in connection therewith ~~which~~ *that* is prohibited by any other provision of law.

(d) Nothing in Section 17539.1 or 17539.2 shall be construed to hold any newspaper publisher or radio or television broadcaster liable for publishing or broadcasting any advertisement relating to a contest, unless that publisher or broadcaster is the person conducting or holding that contest.

(e) As used in Sections 17539 to 17539.2, inclusive, ~~the term contest~~ *"contest"* includes any game, contest, puzzle, scheme, or plan ~~which~~ *that* holds out or offers to prospective participants the opportunity to receive or compete for gifts, prizes, or gratuities as determined by skill or any combination of chance and skill and that is, or in whole or in part may be, conditioned upon the payment of consideration~~;~~.

(f) Sections 17539 to 17539.2, inclusive, do not apply to ~~(1)~~ the mailing or otherwise sending of an application for admission, or a notification or token evidencing the right of admission, to~~, or (2) the operation of~~ a contest, performance, sporting event, or

tournament of skill, speed, ~~or~~ power, or endurance between, *or the operation of the contest, performance, sporting event, or tournament by,* participants physically present at that contest, performance, sporting event, or tournament.

SEC. 26. Section 18625 of the Business and Professions Code is amended to read:

18625. "Contest" and "match" are synonymous, may be used interchangeably, ~~and~~ include boxing, kickboxing, *and* martial arts exhibitions, and mean a fight, prizefight, boxing contest, pugilistic contest, kickboxing contest, martial arts contest, *or* sparring match, between two or more persons, where full or partial contact is used or intended ~~which~~ *that* may result or *is* intended~~,~~ to result in physical harm to the opponent. In any exhibition or sparring match, the opponents are not required to use their best efforts.

SEC. 27. Section 18720 of the Business and Professions Code is amended to read:

18720. *(a)* No boxing contest or match shall be more than 12 rounds ~~or~~ *of* not more than three minutes each in length, except that championship contests may, if the written approval of the commission ~~if~~ *is* first obtained, be 15 rounds of not more than three minutes each in length. The commission may limit the number of rounds in a contest within the maximum.

(b) There shall be one minute rest between consecutive rounds.

SEC. 28. Section 18830 of the Business and Professions Code is amended to read:

18830. As used in this article:

(a) "Person" includes a promoter, club, individual, corporation, partnership, limited liability company, association, or other organization.

(b) "Closed circuit telecast" includes any telecast or broadcast, transmitted by any means, including subscription where an extra or additional fee is charged *or* where an identifiable or particular fee is charged for the viewing within this state of a simultaneous telecast of any live, current, or spontaneous match or wrestling exhibition.

SEC. 29. Section 19613.2 of the Business and Professions Code is amended to read:

19613.2. (a) Any horsemen's, owners', or trainers' organization or organization representing horsemen, owners, or trainers shall be incorporated under the laws of the State of California in order to receive a distribution or deduction under this chapter. Each corporation shall represent a majority of the horsemen, owners, or trainers in the state with respect to the breed of horses the corporation represents. The board shall initially determine the organization that represents California horsemen with respect to each breed. Any distribution or deduction received by any of those organizations shall be used only for the benefit of California horsemen.

(b) No portion of the amount distributed pursuant to Section 19613 to an owners', trainers', or horsemen's organization shall be used for the purpose of making contributions to candidates for public office, or to urge or oppose any measure on the ballot. The organizations representing owners, trainers, and horsemen may expend no more than the amount reasonably necessary to represent its members before the Legislature and the board with respect to issues that directly affect services rendered to owners, trainers, and horsemen. The board shall annually review the budgets of the organizations representing owners, trainers, and horsemen and shall determine the appropriate amount to be expended for providing the representation authorized by this subdivision.

(c) If an owners', trainers', or horsemen's organization is conducting itself contrary to statute, regulation, or order of the board, the board may take disciplinary action against the organization, including ordering an association to withhold any distribution authorized pursuant to Section 19613.

(d) Upon recognition by the board of a successor horsemen's, owners', or trainers' organization or organization representing horsemen, owners, or trainers, the board shall apportion those assets ~~which~~ *that* were generated pursuant to Section 19613 for the benefit of the horsemen and the successor organization.

SEC. 30. Section 21669.1 of the Business and Professions Code is amended to read:

21669.1. ~~(a)~~ In addition to the requirements specified in subdivision (a) of Section 21669, all swap meets conducted on the premises or property of a state or local governmental entity

~~which~~ *that* has or expects to have an average daily attendance of 10,000 or more persons shall provide all of the following:

~~(1)~~

(a) A statement of ownership, including the identity of individuals holding a financial interest of 5 percent or more.

~~(2)~~

(b) A sworn statement that no individuals who have a financial interest of 5 percent or more in the swap meet have been convicted of any crime involving dishonesty or moral turpitude.

~~(3)~~

(c) A financial statement showing the operator's financial capability to operate a major swap meet and to meet any financial obligations to the lessor and subcontractors.

~~(4)~~

(d) A statement that the operator is not knowingly delinquent in any payments owed to a state or local governmental entity and that he or she is not knowingly in violation of any state or local law or ordinance related to public health or safety standards.

~~(5)~~

(e) Evidence that the operator has a minimum of five years of experience in the management and operation of a swap meet for profit with an average daily attendance of 5,000 or more.

~~(6)~~

(f) A plan for operations, including security, crowd control, sanitation, and emergency medical response.

SEC. 31. Section 22701 of the Business and Professions Code is amended to read:

22701. The Legislature finds and declares:

(a) Many physicians and scientists now warn that the risks associated with suntanning are greater when tanning with artificial ultraviolet light.

(b) These risks include, but are not limited to, sunburn, premature aging, skin cancer, retinal damage, formation of cataracts, suppression of the immune system, and damage to the vascular system.

(c) Certain medications, cosmetics, and foods are "photosensitizing," which means that in some people they react unfavorably with ultraviolet light to produce skin rashes or burns.

(d) Sunlamps and other artificial sources of ultraviolet light are known to intensify these effects.

(e) The creation of state law to protect and promote the public health, safety, and welfare is needed concerning tanning with artificial ultraviolet light.

SEC. 32. Section 22901 of the Business and Professions Code is amended to read:

22901. The following definitions apply for purposes of this chapter:

(a) "Act" means the Fair Practices of Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act.

(b) "Bulk sales law" means the Uniform Commercial Code-Bulk Sales as contained in Division 6 (commencing with Section 6101) of the Commercial Code.

(c) "Claim" means a dealer's claim for reimbursement from a supplier for labor and materials expended by the dealer to meet the requirements of the supplier's warranty agreement with a consumer of the supplier's products if the dealer has complied with the supplier's then-existing written policies and procedures for warranties and warranty claims.

(d) "Current parts price" means, with respect to current parts, the price for repair parts listed in the supplier's price list or catalog in effect at the time the dealer contract is canceled or discontinued or, for purposes of Section 22905, the price list or catalog in effect at the time the repair parts were ordered. "Current parts price" also means, with respect to superseded repair parts, the price listed in the supplier's price list or catalog in effect at the time the dealer contract is canceled or discontinued for the part that performs the same function and purpose as the superseded part, but is simply listed under a different part number.

(e) "Current net parts cost" means the current parts price less any trade or cash discounts typically given to the dealer with respect to that dealer's normal, ordinary course of orders of repair parts. "Current net parts cost" also means, with respect to a warranty, the current parts price of the supplier for the equipment repaired less any trade or cash discounts typically given to the dealer with respect to that dealer's normal, ordinary course of orders of repair parts.

(f) "Dealer" means any person primarily engaged in the retail sale of equipment as defined in subdivision ~~(i)~~ *(j)*. For the purposes of this act, "dealer" does not include a "franchisee" as

defined in Section 331.1 of the Vehicle Code or a "new motor vehicle dealer" as defined in Section 426 of the Vehicle Code.

(g) "Dealer contract" means either an oral or written contract, agreement, or arrangement for a definite or indefinite period between a dealer and a supplier that provides for the rights and obligations of the parties with respect to the purchase or sale of equipment or repair parts.

(h) "Dealership" means the retail sale business engaged in by a dealer under a dealer contract.

(i) "Demonstrator" means equipment in a dealer's inventory that has not been sold, but has had its usage demonstrated to potential customers, either without charge or pursuant to a short-term rental agreement, with the intent of encouraging the potential customer to purchase the equipment.

(j) (1) "Equipment" means all-terrain vehicles and other machinery, equipment, implements, or attachments used for, or in connection with, any of the following purposes:

(A) Lawn, garden, golf course, landscaping, or grounds maintenance.

(B) Planting, cultivating, irrigating, harvesting, and producing agricultural or forestry products.

(C) Raising, feeding, *or* tending to, or harvesting products from, livestock and any other activity in connection with those activities.

(D) Industrial, construction, maintenance, mining, or utility activities or applications, including, but not limited to, material handling equipment.

(2) Self-propelled vehicles designed primarily for the transportation of persons or property on a street or highway are specifically excluded from the definition of equipment.

(k) "Family member" means a spouse, parent, sibling, child, son-in-law, daughter-in-law, and lineal ~~descendent~~ *descendant*, including those by adoption.

(*l*) "Good cause" means failure by a dealer to comply with the requirements imposed on the dealer by the dealer contract, if those requirements are not different from those requirements imposed on other similarly situated dealers in this state.

(m) "Index" means the United States Department of Labor, Bureau of Labor Statistics purchase price index for construction

machinery series identification number pcu333120333120, or any successor index measuring substantially similar information.

(n) "Inventory" means equipment, repair parts, data-processing hardware or software, and specialized service or repair parts.

(o) "Major shareholder" means a shareholder with ~~51 percent~~ *51-percent* or greater interest in a dealership.

(p) "Manufacturer~~ Created Incentive Program"~~ *created incentive program"* means a program in which the dealer's inventory has not been sold but has been used for specialized purposes, including, but not limited to, harvest rental programs, dealer purchase rentals, and short-term rentals. The warranty that is transferred to the consumer upon sale, which shall be disclosed prior to sale, is the~~ manufacturer provided~~ *manufacturer-provided* base warranty, less hours and time used while in a manufacturer created incentive program.

(q) "Net equipment cost" means the price the dealer actually paid to the supplier for equipment, plus (1) freight, at truckload rates in effect as of the effective date of the termination of a dealer contract, if freight was paid by the dealer from the supplier's location to the dealer's location and (2) reimbursement for labor incurred in preparing the equipment for retail sale or rental, which labor will be reimbursed at the dealer's standard labor rate charged by the dealer to its customers for nonwarranty repair work; provided, however, if a supplier has established a reasonable setup time, that labor will be reimbursed at an amount equal to the reasonable setup time in effect as of the date of delivery multiplied by the dealer's standard labor rate.

(r) "Person" means an individual, corporation, partnership, limited liability company, trust, or any and all other forms of business entities, including any other entity in which a person has a majority interest or of which a person has control, as well as the individual officers, directors, and other persons in active control of the activities of each entity.

(s) "Repair parts" means all parts and products related to the service or repair of equipment, including superseded parts.

(t) "Single-line dealer" means a dealer that has (1) purchased construction, industrial, forestry, and mining equipment from a single supplier constituting 75 percent of the dealer's new equipment, calculated on the basis of net cost; and (2) a total

annual average sales volume in excess of forty million dollars ($40,000,000) for the three calendar years immediately preceding the applicable determination date; provided, however, the sales threshold shall be increased each year by an amount equal to the current sales threshold multiplied by the percentage increase in the index from January 1 of the immediately preceding year to January 1 of the current year.

(u) "Single-line supplier" means the supplier that is selling the single-line dealer construction, industrial, forestry, and mining equipment constituting 75 percent of the dealer's new equipment.

(v) "Supplier" means any person engaged in the business of manufacturing, assembly, or wholesale distribution of equipment or repair parts. "Supplier" also includes any successor in interest to a supplier, including a purchaser of assets or stock, or a surviving corporation resulting from a merger, liquidation, or reorganization of a supplier.

(w) "Terminate" means to terminate, cancel, fail to renew, or materially change the competitive circumstances of a dealer contract.

SEC. 33. Section 22915 of the Business and Professions Code is amended to read:

22915. ~~(a)~~ The lien created pursuant to this act shall be treated according to the following:

~~(1)~~

(a) Have priority in accordance with the time the notice of claim of lien is filed with the Secretary of State.

~~(2)~~

(b) Have the same priority as a security interest perfected by the filing of a financing statement as of the date of notice of claim of lien was filed with the Secretary of State.

~~(3)~~

(c) Not have priority over labor claims for wages and salaries for personal services ~~which~~ *that* are provided by any employee to any lien debtor in connection with the equipment supplied, the proceeds of which are subject to the lien.

SEC. 34. Section 23426.5 of the Business and Professions Code is amended to read:

23426.5. *(a)* For purposes of this article, "club" also means any tennis club ~~which~~ *that* maintains not less than four regulation tennis courts, together with the necessary facilities and

clubhouse, ~~and which~~ has members paying regular monthly dues ~~and which~~, has been in existence for not less than 45 years, and is not associated with a ~~real estate~~ *common interest* development as defined in Section ~~11003.1~~ *1351* of ~~this code~~ *the Civil Code*, a community apartment project as defined in Section 11004 of this code, a project consisting of condominiums as defined in Section 783 of the Civil Code, or a mobilehome park as defined in Section 18214 of the Health and Safety Code.

(b) It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of ~~such~~ *the* person's color, race, religion, ancestry, national origin, sex, or age.

SEC. 35. Section 25660 of the Business and Professions Code is amended to read:

25660. (a) Bona fide evidence of majority and identity of the person is a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license or an identification card issued to a member of the Armed Forces, that contains the name, date of birth, description, and picture of the person.

(b) In the event an identification card issued to a member of the Armed Forces is provided as proof of majority and lacks a physical description, proof of majority may be further substantiated if a motor vehicle operator's license or other valid bona fide identification issued by any government jurisdiction is also provided.

(c) Proof that the defendant-licensee, or his *or her* employee or agent, demanded, was shown, and acted in reliance upon ~~such~~ bona fide evidence in any transaction, employment, use, or permission forbidden by Section 25658, 25663, or 25665 shall be a defense to any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

SEC. 36. Section 43.97 of the Civil Code is amended to read:

43.97. ~~(a)~~ There shall be no monetary liability on the part of, and no cause of action for damages, other than economic or pecuniary damages, shall arise against, a hospital for any action taken upon the recommendation of its medical staff, or against any other person or organization for any action taken, or

restriction imposed, which is required to be reported pursuant to Section 805 of the Business and Professions Code, ~~provided~~ *if* that ~~the~~ action or restriction is reported in accordance with Section 805 of the Business and Professions Code. This section shall not apply to an action knowingly and intentionally taken for the purpose of injuring a person affected by the action~~,~~ or infringing upon a person's rights.

SEC. 37. Section 51.4 of the Civil Code is amended to read:

51.4. (a) The Legislature finds and declares that the requirements for senior housing under Sections 51.2 and 51.3 are more stringent than the requirements for that housing under the federal Fair Housing Amendments Act of 1988 ~~(Public Law~~ *(P.L.* 100-430) in recognition of the acute shortage of housing for families with children in California. The Legislature further finds and declares that the special design requirements for senior housing under Sections 51.2 and 51.3 may pose a hardship to some housing developments ~~which~~ *that* were constructed before the decision in Marina Point, Ltd. v. Wolfson (1982)~~,~~ 30 ~~Cal. 3d 72~~ *Cal.3d 721*. The Legislature further finds and declares that the requirement for specially designed accommodations in senior housing under Sections 51.2 and 51.3 provides important benefits to senior citizens and also ensures that housing exempt from the prohibition of age discrimination is carefully tailored to meet the compelling societal interest in providing senior housing.

(b) Any person who resided in, occupied, or used, prior to January 1, 1990, a dwelling in a senior citizen housing development ~~which~~ *that* relied on the exemption to the special design requirement provided by this section prior to January 1, 2001, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the changes made to this section by the enactment of ~~Senate Bill 1382 or Senate Bill 2011 at the 1999–2000 Regular Session of the Legislature~~ *Chapter 1004 of the Statutes of 2000*.

(c) This section shall not apply to the County of Riverside.

SEC. 38. Section 54.6 of the Civil Code is amended to read:

54.6. As used in this part, "visually impaired" includes blindness and means having central visual acuity not to exceed 20/200 in the better eye, with corrected lenses, as measured by the Snellen test, or visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of

the visual field ~~subtendsan~~ *subtends an* angle ~~is~~ not greater than 20 degrees.

SEC. 39. Section 56.21 of the Civil Code is amended to read:

56.21. An authorization for an employer to disclose medical information shall be valid if it *complies with all of the following*:

(a) Is handwritten by the person who signs it or is ~~a~~ in *a* typeface no smaller than 14-point type.

(b) Is clearly separate from any other language present on the same page and is executed by a signature ~~which~~ *that* serves no purpose other than to execute the authorization.

(c) Is signed and dated by one of the following:

(1) The patient, except that a patient who is a minor may only sign an authorization for the disclosure of medical information obtained by a provider of health care in the course of furnishing services to which the minor could lawfully have consented under Part 1 (commencing with Section 25) or Part 2.7 (commencing with Section 60) of Division 1.

(2) The legal representative of the patient, if the patient is a minor or incompetent. However, authorization may not be given under this subdivision for the disclosure of medical information ~~which~~ *that* pertains to a competent minor and ~~which~~ *that* was created by a provider of health care in the course of furnishing services to which a minor patient could lawfully have consented under Part 1 (commencing with Section 25) or Part 2.7 (commencing with Section 60) of Division 1.

(3) The beneficiary or personal representative of a deceased patient.

(d) States the limitations, if any, on the types of medical information to be disclosed.

(e) States the name or functions of the employer or person authorized to disclose the medical information.

(f) States the names or functions of the persons or entities authorized to receive the medical information.

(g) States the limitations, if any, on the use of the medical information by the persons or entities authorized to receive the medical information.

(h) States a specific date after which the employer is no longer authorized to disclose the medical information.

(i) Advises the person who signed the authorization of the right to receive a copy of the authorization.

SEC. 40. Section 799.2.5 of the Civil Code is amended to read:

799.2.5. *(a)* Except as provided in subdivision (b), the ownership or management shall have no right of entry to a mobilehome without the prior written consent of the resident. The consent may be revoked in writing by the resident at any time. The ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities, trees, and driveways, for maintenance of the premises in accordance with the rules and regulations of the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park when the homeowner or resident fails to so maintain the premises, and protection of the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park at any reasonable time, but not in a manner or at a time that would interfere with the resident's quiet enjoyment.

(b) The ownership or management may enter a mobilehome without the prior written consent of the resident in case of an emergency or when the resident has abandoned the mobilehome.

SEC. 41. Section 846.1 of the Civil Code is amended to read:

846.1. (a) Except as provided in subdivision (c), an owner of any estate or interest in real property, whether possessory or nonpossessory, who gives permission to the public for entry on or use of the real property pursuant to an agreement with a public or nonprofit agency for purposes of recreational trail use, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner.

(3) The owner prevails in the civil action.

(b) Except as provided in subdivision (c), a public entity, as defined in Section 831.5 of the Government Code, that gives

permission to the public for entry on or use of real property for a recreational purpose, as defined in Section 846, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by this public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the public entity.

(3) The public entity prevails in the civil action.

(c) An owner of any estate or interest in real property, whether possessory or nonpossessory, or a public entity, as defined in Section 831.5 of the Government Code, that gives permission to the public for entry on, or use of, the real property for a recreational purpose, as defined in Section 846, pursuant to an agreement with a public or nonprofit agency, and is a defendant in a civil action brought by, or on behalf of, a person who seeks to restrict, prevent, or delay public use of that property, may present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for reasonable attorney's fees incurred in the civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner or public entity.

(3) The owner or public entity prevails in the civil action.

(d) The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall allow the claim if the requirements of this section are met. The claim shall be paid from an appropriation to be made for that purpose. Reasonable ~~attorneys'~~ *attorney's* fees, for purposes of this section, may not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made, and may not exceed an aggregate amount of twenty-five

thousand dollars ($25,000). This subdivision shall not apply if a public entity has provided for the defense of this civil action pursuant to Section 995 of the Government Code. This subdivision shall also not apply if an owner or public entity has been provided a legal defense by the state pursuant to any contract or other legal obligation.

(e) The total of claims allowed by the board pursuant to this section shall not exceed two hundred thousand dollars ($200,000) per fiscal year.

SEC. 42. Section 1363.04 of the Civil Code is amended to read:

1363.04. (a) Association funds shall not be used for campaign purposes in connection with any association board election. Funds of the association shall not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law.

(b) For the purposes of this section, "campaign purposes" ~~include~~ *includes*, but ~~are~~ *is* not limited to, the following:

(1) Expressly advocating the election or defeat ~~or~~ *of* any candidate that is on the association election ballot.

(2) Including the photograph or prominently featuring the name of any candidate on a communication from the association or its board, excepting the ballot and ballot materials, within 30 days of an election~~, provided that this~~. *This* is not a campaign purpose if the communication is one for which subdivision (a) of Section 1363.03 requires that equal access be provided to another candidate or advocate.

SEC. 43. Section 1363.07 of the Civil Code is amended to read:

1363.07. (a) After an association acquires fee title to, or any easement right over, a common area, unless the association's governing documents specify a different percentage, the affirmative vote of members owning at least ~~sixty seven~~ *67* percent of the separate interests in the common interest development shall be required before the board of directors may grant exclusive use of any portion of that common area to any member, except for any of the following:

(1) A reconveyance of all or any portion of that common area to the subdivider to enable the continuation of development that

is in substantial conformance with a detailed plan of phased development submitted to the *Real Estate* Commissioner ~~of the Department of Real Estate~~ with the application for a public report~~;~~.

(2) Any grant of exclusive use that is in substantial conformance with a detailed plan of phased development submitted to the *Real Estate* Commissioner ~~of the Department of Real Estate~~ with the application for a public report or in accordance with the governing documents approved by the *Real Estate* Commissioner ~~of the Department of Real Estate~~.

(3) Any grant of exclusive use that is for any of the following reasons:

(A) To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company.

(B) To eliminate or correct encroachments due to errors in construction of any improvements.

(C) To permit changes in the plan of development submitted to the *Real Estate* Commissioner ~~of the Department of Real Estate~~ in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions.

(D) To fulfill the requirement of a public agency.

(E) To transfer the burden of management and maintenance of any common area that is generally inaccessible and ~~is~~ not of general use to the membership at large of the association.

(F) Any grant in connection with an expressly zoned industrial or commercial development, or any grant within a subdivision of the type defined in Section 1373.

(b) Any measure placed before the members requesting that the board of directors grant exclusive use of any portion of the common area shall specify whether the association will receive any monetary consideration for the grant and whether the association or the transferee will be responsible for providing any insurance coverage for exclusive use of the common area.

SEC. 44. Section 1761 of the Civil Code is amended to read:

1761. As used in this title:

(a) “Goods” means tangible chattels bought or leased for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and

including goods ~~which~~ *that*, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of real property, whether or not *they are* severable ~~therefrom~~ *from the real property*.

(b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods.

(c) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.

(d) "Consumer" means an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.

(e) "Transaction" means an agreement between a consumer and any other person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

(f) "Senior citizen" means a person who is 65 years of age or older.

(g) "Disabled person" means any person who has a physical or mental impairment ~~which~~ *that* substantially limits one or more major life activities.

(1) As used in this subdivision, "physical or mental impairment" means any of the following:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; ~~muscoloskeletal~~ *musculoskeletal*; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. ~~The term "physical~~ "*Physical* or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(h) "Home solicitation" means any transaction made at the consumer's primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

SEC. 45. Section 1786.10 of the Civil Code is amended to read:

1786.10. (a) Every investigative consumer reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding the consumer at the time of the request.

(b) *(1)* All items of information shall be available for inspection, except that the sources of information, other than public records and records from ~~data bases~~ *databases* available for sale, acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed. However, if an action is brought under this title, those sources shall be available to the consumer under appropriate discovery procedures in the court in which the action is brought.

~~Nothing in this~~

(2) This title shall *not* be interpreted to mean that investigative consumer reporting agencies are required to divulge to consumers the sources of investigative consumer reports, except in appropriate discovery procedures as outlined ~~herein~~ *in this title*.

(c) The investigative consumer reporting agency shall also identify the recipients of any investigative consumer report on the consumer that the investigative consumer reporting agency has furnished *for either of the following purposes*:

(1) For employment or insurance purposes within the three-year period preceding the request.

(2) For any other purpose within the three-year period preceding the request.

(d) The identification of a recipient under subdivision (c) shall include the name of the recipient or, if applicable, the trade name (written in full) under which the recipient conducts business and,

upon request of the consumer, the address and telephone number of the recipient.

(e) The investigative consumer reporting agency shall also disclose the dates, original payees, and amounts of any checks or charges upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.

SEC. 46. Section 1788.2 of the Civil Code is amended to read:

1788.2. (a) Definitions and rules of construction set forth in this section are applicable for the purpose of this title.

(b) ~~The term "debt~~ "*Debt* collection" means any act or practice in connection with the collection of consumer debts.

(c) ~~The term "debt~~ "*Debt* collector" means any person who, in the ordinary course of business, regularly, on behalf of himself or herself or others, engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters, and other collection media used or intended to be used for debt collection, but does not include an attorney or counselor at law.

(d) ~~The term "debt"~~ "*Debt*" means money, property, or their equivalent, which is due or owing or alleged to be due or owing from a natural person to another person.

(e) ~~The term "consumer~~ "*Consumer* credit transaction" means a transaction between a natural person and another person in which property, services, or money is acquired on credit by that natural person from ~~such other~~ *another* person primarily for personal, family, or household purposes.

(f) ~~The terms "consumer~~ "*Consumer* debt" and "consumer credit" mean money, property, or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction.

(g) ~~The term "person"~~ "*Person*" means a natural person, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other similar entity.

(h) ~~The term "debtor"~~ "*Debtor*" means a natural person from whom a debt collector seeks to collect a consumer debt which is due and owing or alleged to be due and owing from such person.

(i) ~~The term "creditor"~~ "*Creditor*" means a person who extends consumer credit to a debtor.

(j) ~~The term "consumer~~ *(1) "Consumer* credit report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for ~~(1) credit~~ *any of the following:*

(A) Credit or insurance to be used primarily for ~~person~~ *personal*, family, or household purposes~~, or (2) employment~~.

(B) Employment purposes~~, or (3) other~~.

(C) Other purposes authorized under any applicable federal or state law or regulation. ~~The term~~

(2) "Consumer credit report" does not include ~~(a)~~ any *of the following:*

(A) Any report containing information solely as to transactions or experiences between the consumer and the person making the report~~; (b) any~~.

(B) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device~~; or (c) any~~.

(C) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to that request~~,~~ if the third party advises the consumer of the name and address of the person to whom the request was made and ~~such~~ *that* person makes the disclosures to the consumer required under any applicable federal or state law or regulation.

(k) ~~The term "consumer~~ "*Consumer* reporting agency" means any person ~~which~~ *who*, for monetary fees~~,~~ *or* dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties, and ~~which~~ *who* uses any means or facility for the purpose of preparing or furnishing consumer credit reports.

SEC. 47. Section 1789.37 of the Civil Code is amended to read:

1789.37. (a) Every owner of a check casher's business shall obtain a permit from the Department of Justice to conduct a check casher's business.

(b) All applications for a permit to conduct a check casher's business shall be filed with the department in writing, signed by the applicant, if an individual, or by a member or officer authorized to sign, if the applicant is a corporation or other entity, and shall state the name of the business, the type of business engaged in, and the business address. Each applicant shall be fingerprinted.

(c) Each applicant for a permit to conduct a check casher's business shall pay a fee not to exceed the cost of processing the application, fingerprinting the applicant, and checking or obtaining the criminal record of the applicant, at the time of filing the application.

(d) Each applicant shall annually, beginning one year from the date of issuance of a check casher's permit, file an application for renewal of the permit with the department, along with payment of a renewal fee not to exceed the cost of processing the application for renewal and checking or obtaining the criminal record of the applicant.

(e) The department shall deny an application for a permit to conduct a check casher's business, or for renewal of a permit, if the applicant has a felony conviction involving dishonesty, fraud, or deceit, ~~provided~~ *if* the crime is substantially related to the qualifications, functions, or duties of a person engaged in the business of check cashing.

(f) The department shall adopt regulations to implement this section and shall determine the amount of the application fees required by this section. The department shall prescribe forms for the applications and permit required by this section, which shall be uniform throughout the state.

(g) In any action brought by a city attorney or district attorney to enforce a violation of this section, ~~any~~ *an* owner of a check casher's business who engages in the business of check cashing without holding a current and valid permit issued by the department pursuant to this section is subject to a civil penalty, as follows:

(1) For the first offense, not more than one thousand dollars ($1,000).

(2) For the second offense, not more than five thousand dollars ($5,000).

(h) Any person who has twice been found in violation of subdivision (g) and who, within 10 years of the date of the first offense, engages in the business of check cashing without holding a current and valid permit issued by the department pursuant to this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five thousand dollars ($5,000), or by both *that fine and imprisonment*.

(i) All civil penalties, forfeited bail, or fines received by any court pursuant to this section shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated. Fines and forfeitures ~~so~~ deposited shall be disbursed pursuant to the Penal Code. Civil penalties ~~so~~ deposited shall be paid at least once a month as follows:

(1) Fifty percent to the Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, to be deposited in the State Treasury on order of the Controller.

(2) Fifty percent to the city treasurer of the city, if the offense occurred in a city, otherwise to the treasurer of the county in which the prosecution is conducted. Any money deposited in the State Treasury under this section ~~which~~ *that* is determined by the Controller to have been erroneously deposited ~~therein~~ shall be refunded, subject to approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* prior to the payment of the refund, out of any money in the State Treasury ~~which~~ *that* is available by law for that purpose.

(j) This section shall become operative December 31, 2004.

SEC. 48. Section 1812.85 of the Civil Code is amended to read:

1812.85. (a) Every contract for health studio services shall provide that performance of the agreed upon services will begin within six months after the date the contract is entered into. The consumer may cancel the contract and receive a pro rata refund if the health studio fails to provide the specific facilities advertised or offered in writing by the time indicated. If no time is indicated in the contract, the consumer may cancel the contract within six

months after the execution of the contract and shall receive a pro rata refund. If a health studio fails to meet a timeline set forth in this section, the consumer may cancel the contract at any time after the expiration of the timeline, provided that if, following the expiration of the timeline, the health studio does provide the advertised or agreed upon services, the consumer may cancel the contract up to 10 days after those services are provided.

(b) (1) Every contract for health studio services shall, in addition, contain on its face, and in close proximity to the space reserved for the signature of the buyer, a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

"You, the buyer, may cancel this agreement at any time prior to midnight of the fifth business day of the health studio after the date of this agreement, excluding Sundays and holidays. To cancel this agreement, mail or deliver a signed and dated notice, or send a telegram which states that you, the buyer, are canceling this agreement, or words of similar effect. The notice shall be sent to~~,~~

_____

(Name of health studio operator)

at_____

(Address of health studio operator)."

(2) The contract for health studio services shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (A) the name and address of the health studio operator to which the notice of cancellation is to be mailed, and (B) the date the buyer signed the contract.

(3) The contract shall provide a description of the services, facilities, and hours of access to which the consumer is entitled. Any services, facilities, and hours of access that are not described in the contract shall be considered optional services, and these optional services shall be considered as separate contracts for the purposes of this title and Section 1812.83.

(4) Until the health studio operator has complied with this section, the buyer may cancel the contract for health studio services.

(5) All moneys paid pursuant to a contract for health studio services shall be refunded within 10 days after receipt of the

notice of cancellation, except that payment shall be made for any health studio services received prior to cancellation.

(c) If at any time during the term of the contract, including a transfer of the contractual obligation, the health studio eliminates or substantially reduces the scope of the facilities, such as swimming pools or tennis courts, that were described in the contract, in an advertisement relating to the specific location, or in a written offer, and available to the consumer upon execution of the contract, the consumer may cancel the contract and receive a pro rata refund. The consumer may not cancel the contract pursuant to this subdivision if the health studio, after giving reasonable notice to its members, temporarily takes facilities out of operation for reasonable repairs, modifications, substitutions, or improvements. This subdivision shall not be interpreted to give the consumer the right to cancel a contract because of changes to the type or quantity of classes or equipment offered, provided the consumer is informed in the contract that the health studio reserves the right to make changes to the type or quantity of classes or equipment offered and the changes to the type or quantity of classes or equipment offered is reasonable under the circumstances.

(d) (1) If a contract for health studio services requires payment of one thousand five hundred dollars ($1,500) to two thousand dollars ($2,000), inclusive, including initiation fees or initial membership fees, by the person receiving the services or the use of the facility, the person shall have the right to cancel the contract within 20 days after the contract is executed.

(2) If a contract for health studio services requires payment of two thousand one dollars ($2,001) to two thousand five hundred dollars ($2,500), inclusive, including initiation fees or initial membership fees, by the person receiving the services or the use of the facility, the person shall have the right to cancel the contract within 30 days after the contract is executed.

(3) If a contract for health studio services requires payment of two thousand five hundred ~~and~~ one dollars ~~($2501)~~ *($2,501)* or more, including initiation fees or initial membership fees, by the person receiving the services or the use of the facility, the person shall have the right to cancel the contract within 45 days after the contract is executed.

(4) The right of cancellation provided in this subdivision shall be set out in the membership contract.

(5) The rights and remedies under this paragraph are cumulative to any rights and remedies under other law.

(6) A health studio entering into a contract for health studio services that does not require payment in excess of one thousand dollars ~~($1000)~~ *($1,000)*, including initiation or initial membership fees and exclusive of interest or finance charges, by the person receiving the services or the use of the facilities, is not required to comply with the provisions of this subdivision that are added by ~~the act adding this paragraph~~ *Section 3 of Chapter 439 of the Statutes of 2005*.

(e) Upon cancellation, the consumer shall be liable only for that portion of the total contract payment, including initiation fees and other charges however denominated, that has been available for use by the consumer, based upon a pro rata calculation over the term of the contract. The remaining portion of the contract payment shall be returned to the consumer by the health studio.

SEC. 49. Section 1812.97 of the Civil Code, as added by Section 6 of Chapter 439 of the Statutes of 2005, is amended and renumbered to read:

~~1812.97.~~

1812.98. Nothing in this title is intended to prohibit month-to-month contracts. This section is declaratory of existing law.

SEC. 50. Section 1812.106 of the Civil Code is amended to read:

1812.106. Every discount buying organization, before obtaining the signature of a potential buyer on any application or contract for discount buying services, shall provide to the buyer, and shall allow the buyer to retain, the following written disclosures:

(a) The exact nature of the services it provides, specifying the general categories of goods ~~which~~ *that* are available at the discount buying organization's place of business or warehouse, those categories of goods, if any, ~~which~~ *that* must be ordered or obtained through stores to which the discount buying organization will refer the customer, and those categories of

goods, if any, ~~which~~ *that* must *be* ordered or obtained through the mail.

(b) A list, current within the previous 60 days, of at least 100 items ~~which~~ *that* are sold by or through the organization or available to those who contract with the organization, identified by brand name, model, and total price including a reasonable estimate of freight charges, if any are to be imposed; a reasonable estimate of delivery charges, if any are to be imposed; a reasonable estimate of setup charges, if any are to be imposed; the discount buying organization's price markup*;* and a reasonable estimate of any other charges the discount buying organization imposes. These items shall be reasonably representative as to the type of goods available. In lieu of providing ~~such a~~ *this* list, the discount buying organization shall provide and allow the buyer to retain a list of at least 100 items ~~which~~ *that* were purchased by its members through the discount buying organization during the preceding 60 days. ~~Such~~ *This* list shall identify the items by brand name, model, and total selling price including freight charges, if any~~,~~*;* delivery charges, if any~~,~~*;* setup charges, if any~~,~~*;* the discount buying organization's price markup~~,~~*;* and any other charges imposed by the discount buying organization, and shall be representative as to the type of goods sold and the prices charged for the listed goods sold during that period. If the maximum number of items available through a discount buying organization is ~~less~~ *fewer* than 100 in number, it may comply with this section by furnishing a list of the total items available, identified as described above with a statement that those are the only goods presently available. Any list required by this subdivision shall state the date on which it was prepared.

(c) A statement of the discount buying organization's policy with respect to warranties or guarantees on goods ordered, and the policy with respect to the return of ordered goods, cancellation of orders by the buyer, and refunds for cancellation or return.

(d) A description of any charges, such as freight charges, delivery charges, setup charges, seller's markup, and any other charges ~~which~~ *that* are incidental to the purchase of goods through the discount buying organization and ~~which~~ are to be paid by the buyer. A disclosure of these costs in specific

monetary amounts shall also be made on each order placed through the discount buying organization.

(e) If any stockholder, director, officer, *or* general or limited partner of the discount buying organization, as the case may be:

(1) Has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge, if ~~such~~ *the* felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, misappropriation of property, or a violation of this title~~; or~~.

(2) Has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment if the civil action alleged fraud, embezzlement, fraudulent conversion, or misappropriation of property ~~or~~, a violation of this title ~~or~~, the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property, or the use of unfair, unlawful, or deceptive business practices~~; or~~.

(3) Is subject to any currently effective injunction or restrictive order relating to business activity as the result of an action brought by a public agency or department, including, but not limited to, an action affecting any vocational license, a statement so stating, and including the name of the court, the date of the conviction, judgment, order, or injunction and, if applicable, the name of the governmental agency that filed the action resulting in the conviction, judgment, order, or injunction.

SEC. 51. Section 1812.306 of the Civil Code is amended to read:

1812.306. (a) A purchaser's remedy for errors in or omissions from the membership camping contract of any of the disclosures or requirements of Sections 1812.302 to 1812.304, inclusive, shall be limited to a right of ~~recission~~ *rescission* and refund. Reasonable attorney's fees shall be awarded to the prevailing party in any action under this title. This limitation does not apply to errors or omissions from the contract, or disclosures or other requirements of this title, which are a part of a scheme to willfully misstate or omit the information required, or other requirements imposed by this title.

(b) Any failure ~~(except~~, *except* a willful or material ~~failure)~~ *failure,* to comply with any provision of Sections 1812.302 to 1812.304, inclusive, may be corrected within 30 days after receipt of written notice to the membership camping operator

from the purchaser, and, if so corrected, there shall be no right of ~~recission~~ *rescission*. The membership camping operator or the holder shall not be subject to any penalty under this title. However, there can be no correction ~~which~~ *that* increases any monthly payment, the number of payments, or the total amount due, unless concurred to, in writing, by the purchaser. "Holder" includes the seller who acquires the contract, or if the contract is purchased, a financing agency or other assignee who purchases the contract.

SEC. 52. Section 1812.501 of the Civil Code is amended to read:

1812.501. (a) ~~The term "employment~~ *(1) "Employment* agency" or "agency" means:

~~(1)~~

(A) Any person who, for a fee or other valuable consideration to be paid, directly or indirectly by a jobseeker, performs, offers to perform, or represents it can or will perform any of the following services:

~~(A)~~

(i) Procures, offers, promises, or attempts to procure employment or engagements for others or employees for employers.

~~(B)~~

(ii) Registers persons seeking to procure or retain employment or engagement.

~~(C)~~

(iii) Gives information as to where and from whom this help, employment, or engagement may be procured.

~~(D)~~

(iv) Provides employment or engagements.

~~The term "employment agency" or "agency" shall not mean or include any employment counseling service or any job listing service.~~

~~(2)~~

(B) Any person who offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, ~~where~~ *if* the main object of the person paying ~~the same~~ *those fees* is to secure employment.

~~(3)~~

(C) Any person who, for a fee or other valuable consideration, procures, offers, promises, provides, or attempts to procure babysitting or domestic employment for others or domestics or babysitters for others.

(2) "Employment agency" or "agency" shall not include any employment counseling service or any job listing service.

(b) (1) ~~The term "employment~~ "*Employment* counseling service" means any person who offers, advertises, or represents it can or will provide any of the following services for a fee: career counseling, vocational guidance, aptitude testing, executive consulting, personnel consulting, career management, evaluation, or planning, or the development of ~~resumés~~ *résumés* and other promotional materials relating to the preparation for employment. ~~The term "employment~~ "*Employment* counseling service" shall not ~~mean or~~ include persons who provide services strictly on an hourly basis with no financial obligation required of the consumer beyond the hourly fee for services rendered. An "employment counseling service" does not include the functions of an "employment agency" as defined in subdivision (a).

(2) ~~The term "employment~~ "*Employment* counseling service" does not include:

(A) Businesses ~~which~~ *that* are retained by, act solely on behalf of, and are compensated solely by prior or current employers ~~which~~ *that* do not require any "customer" to sign a contract and do not in any way hold any "customer" liable for fees.

(B) *(i)* Any provider of vocational rehabilitation in which the counseling services are paid for by insurance benefits, ~~where~~ *if* the counseling is provided as a result of marital dissolution or separation proceedings to prepare one of the spouses for reentry into the job market and ~~where~~ *if* the fees are paid by some party other than the person receiving the counseling services.

(ii) The exemption provided in this subparagraph does not apply to any vocational rehabilitation counselor who receives any payments directly from the individual customer receiving the counseling.

(C) Any person who engages solely in the preparation of ~~resumés~~ *résumés* and cover letters, provided that the ~~resumé~~ *résumé* writing service does not advertise or hold itself out as offering other job seeking or placement services and does not charge more than three hundred dollars ($300) for any ~~resumé~~

résumé, cover letter, or combination of both to any single customer in any individual transaction.

(D) Any public educational institution.

(E) Any private educational institution established solely for educational purposes ~~which~~ *that*, as a part of its curriculum, offers employment counseling to its student body and ~~which~~ ~~institution~~ conforms to the requirements of Article ~~4~~ *3.5* (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code.

(F) A psychologist or psychological corporation licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, providing psychological assessment, career or occupational counseling, or consultation and related professional services within ~~their~~ *his, her, or its* scope of practice.

(G) ~~Educational psychologists~~ *An educational psychologist* licensed pursuant to Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code, providing counseling services within ~~their~~ *his or her* scope of practice.

(c) ~~The term "job~~ "*Job* listing service" means any person who provides, offers, or represents it can or will provide any of the following services, for a fee or other valuable consideration to be paid, directly or indirectly, by the jobseeker in advance of, or contemporaneously with, performance of these services: matches jobseekers with employment opportunities, providing or offering to provide jobseekers lists of employers or lists of job openings or like publications, or preparing ~~resumés~~ *résumés* or lists of jobseekers for distribution to potential employers.

(d) A "nurses' registry" as defined in subdivision (b) of Section 1812.524 is an employment agency. However, unless otherwise provided for in this title, a nurses' registry shall not be required to comply with Chapter 2 (commencing with Section 1812.503) regulating employment agencies but, instead, shall be required to comply with Chapter 7 (commencing with Section 1812.524).

(e) "Jobseeker" means a person seeking employment.

(f) "Employer" means any individual, company, partnership, association, corporation, agent, employee, or representative for

whom or for which an employment agency or job listing service attempts to obtain an employee or to place a jobseeker.

(g) "Job order" means any written or oral instruction, direction, or permission granted by an employer or its agent to an employment agency or job listing service to refer jobseekers for a specified job.

(h) "Domestic agency" means any agency that provides, or attempts to provide, employment by placement of domestic help in private homes.

(i) "Deposit" means any money or valuable consideration received by an employment agency or job listing service from a jobseeker for referring the jobseeker to a position of employment prior to the jobseeker's acceptance of a position.

(j) "Fee" means:

(1) Any money or other valuable consideration paid, or promised to be paid, for services rendered or to be rendered by any person conducting an employment agency, employment counseling service, or job listing service under this title.

(2) Any money received by any person in excess of that which has been paid out by him or her for transportation, transfer of baggage, or board and lodging for any applicant for employment.

(k) "Registration fee" means any charge made, or attempted to be made, by an employment agency for registering or listing an applicant for employment, for letter writing, or any charge of a like nature made, or attempted to be made without having a bona fide order for the placement of the applicant in a position.

(*l*) "Person" means any individual, corporation, partnership, limited liability company, trust, association, or other organization.

(m) This section shall become operative on January 1, 1997.

SEC. 53. Section 1834.8 of the Civil Code is amended to read:

1834.8. (a) At any public auction or sale where equines are sold, the management of the auction or sale shall post a sign (measuring a minimum of 15 x 9 inches with lettering of a minimum of 1¼ x ½ (91 point)) or shall insert into its consignment agreement with the seller in boldface type the notice stated in subdivision (b). If a sign is posted, it shall be posted in a ~~a~~ conspicuous place so that it will be clearly visible to a majority of persons attending the sale. If the notice is inserted into the

consignment agreement, space shall be provided adjacent to the notice for the seller to initial his or her acknowledgment of the notice.

(b) The notice required by subdivision (a) shall read as follows:

"WARNING

Horses sold on these premises may be purchased for slaughter. As a possible safeguard, seller can set minimum bid above current slaughter prices."

(c) For the purposes of this section, the management of the auction or sale shall post current slaughter prices or make them available to sellers upon request.

SEC. 54. Section 2945.3 of the Civil Code is amended to read:

2945.3. (a) Every contract shall be in writing and shall fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the foreclosure consultant, shall be printed immediately above the statement required by subdivision (c):

"NOTICE REQUIRED BY CALIFORNIA LAW

_____ or anyone working
(Name)
for him or her CANNOT:

(1) Take any money from you or ask you for money until _____ has
(Name)
completely finished doing everything he or she said he or she would do; and

(2) Ask you to sign or have you sign any lien, deed of trust, or deed."

(c) The contract shall be written in the same language as principally used by the foreclosure consultant to describe his or her services or to negotiate the contract; shall be dated and signed by the owner; and shall contain in immediate proximity to the space reserved for the owner's signature a conspicuous statement in a size equal to at least 10-point ~~bold~~ *boldface* type, as follows:

"You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(d) The contract shall contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) The name and address of the foreclosure consultant to which the notice or cancellation is to be mailed.

(2) The date the owner signed the contract.

(e) The contract shall be accompanied by a completed form in duplicate, captioned "notice of ~~cancellation",~~ *cancellation*," which shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

_____

(Enter date of transaction) (Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____

(Name of foreclosure consultant)

at _____

(Address of foreclosure consultant's place of business)

NOT LATER THAN MIDNIGHT OF _____ .

(Date)

I hereby cancel this transaction _____.

(Date)

_____"

(Owner's signature)

(f) The foreclosure consultant shall provide the owner with a copy of the contract and the attached notice of cancellation.

(g) Until the foreclosure consultant has complied with this section, the owner may cancel the contract.

(h) After the 65-day period following the foreclosure sale, the foreclosure consultant may enter into a contract to assist the owner in arranging, or arrange for the owner, the release of funds remaining after the foreclosure sale ("surplus funds") from the beneficiary, mortgagee, trustee under a power of sale, or counsel for the beneficiary, mortgagee, or trustee. However, prior to entering into that contract, the foreclosure consultant shall do all of the following:

(1) Prepare and deliver to the owner a notice in 14-point boldface type and substantially in the form set forth below.

(2) Obtain a receipt executed by each owner and acknowledged before a notary public, acknowledging a copy of the notice set forth below.

"NOTICE TO OWNER

_____ _____
(Date of Contract) (Date signed by Owner)

_____
(Date of Foreclosure Sale)

You may be entitled to receive all or a portion of the surplus funds generated from the foreclosure sale of your real property located at: _____, California on _____without paying any fees or costs of any kind to a third party. You should check directly with the trustee or beneficiary who conducted the foreclosure sale of your property to determine the name, address, and telephone number of the party to whom you can direct inquiries regarding filing a claim for surplus funds without paying a fee to a third party. No person or entity may require you to enter into any agreement requiring the payment of a fee to that person or entity in order to receive the surplus funds from the foreclosure sale to which you may be entitled during the 65 days after the date of the trustee's sale."

SEC. 55. Section 2945.9 of the Civil Code is amended to read:

2945.9. *(a)* A foreclosure consultant is liable for all damages resulting from any statement made or act committed by the foreclosure consultant's representative in any manner connected

with the foreclosure consultant's (1) performance, offer to perform, or contract to perform any of the services described in subdivision (a) of Section 2945.1, (2) receipt of any consideration or property from or on behalf ~~or~~ *of* an owner, or (3) performance of any act prohibited by this article.

(b) "Representative" for the purposes of this section means a person who in any manner solicits, induces, or causes (1) any owner to contract with a foreclosure consultant, (2) any owner to pay any consideration or transfer title to the residence in foreclosure to the foreclosure consultant, or (3) any member of the owner's family or household to induce or cause any owner to pay any consideration or transfer title to the residence in foreclosure to the foreclosure consultant.

SEC. 56. Section 2954.7 of the Civil Code is amended to read:

2954.7. Except when a statute, regulation, rule, or written guideline promulgated by an institutional third party applicable to notes or evidence of indebtedness secured by a deed of trust or mortgage purchased in whole or in part by an institutional third party specifically prohibits cancellation during the term of the indebtedness, if a borrower so requests and the conditions established by paragraphs (1) to ~~(6)~~ *(5)*, inclusive, of subdivision (a) are met, a borrower may terminate future payments for private mortgage insurance, or mortgage guaranty insurance as defined in subdivision (a) of Section 12640.02 of the Insurance Code, issued as a condition to the extension of credit in the form of a loan evidenced by a note or other evidence of indebtedness ~~which~~ *that* is secured by a deed of trust or mortgage on the subject real property.

(a) The following conditions shall be satisfied in order for a borrower to be entitled to terminate payments for private mortgage insurance or mortgage guaranty insurance:

(1) The request to terminate future payments for private mortgage insurance or mortgage guaranty insurance shall be in writing.

(2) The origination date of the note or evidence of indebtedness shall be at least two years prior to the date of the request.

(3) The note or evidence of indebtedness shall be for personal, family, household, or purchase money purposes, secured by a

deed of trust or mortgage on owner-occupied, ~~one to four unit~~ *one- to four-unit*, residential real property.

(4) The unpaid principal balance owed on the secured obligation that is the subject of the private mortgage insurance or mortgage guaranty insurance shall not be more than 75 percent, unless the borrower and lender or servicer of the loan agree in writing upon a higher ~~loan to value~~ *loan-to-value* ratio, of either of the following:

(A) The sale price of the property at the origination date of the note or evidence of indebtedness, provided that the current fair market value of the property is equal to or greater than the original appraised value used at the origination date.

(B) The current fair market value of the property as determined by an appraisal, the cost of which shall be paid for by the borrower. The appraisal shall be ordered and the appraiser shall be selected by the lender or servicer of the loan.

(5) The borrower's monthly installments of principal, interest, and escrow obligations on the encumbrance or encumbrances secured by the real property shall be current at the time the request is made and those installments shall not have been more than 30 days past due over the 24-month period immediately preceding the request, provided further, that no notice of default has been recorded against the security real property pursuant to Section 2924, as a result of a nonmonetary default by the borrower (trustor) during the 24-month period immediately preceding the request.

(b) This section does not apply to any of the following:

(1) A note or evidence of indebtedness secured by a deed of trust or mortgage, or mortgage insurance, executed under the authority of Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31 of the Health and Safety Code.

(2) Any note or evidence of indebtedness secured by a deed of trust or mortgage that is funded in whole or in part pursuant to authority granted by statute, regulation, or rule that, as a condition of that funding, prohibits or limits termination of payments for private mortgage insurance or mortgage guaranty insurance during the term of the indebtedness.

(3) Notes or evidence of indebtedness that require private mortgage insurance and were executed prior to January 1, 1991.

(c) If the note secured by the deed of trust or mortgage will be or has been sold in whole or in part to an institutional third party, adherence to the institutional third party's standards for termination of future payments for private mortgage insurance or mortgage guaranty insurance shall be deemed in compliance with the requirements of this section.

(d) For the purposes of this section, "institutional third party" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, and other substantially similar institutions, whether public or private, provided the institutions establish and adhere to rules applicable to the right of cancellation of private mortgage insurance or mortgage guaranty insurance, which are the same or substantially the same as those utilized by the above-named institutions.

SEC. 57. Section 3052.5 of the Civil Code is amended to read:

3052.5. (a) ~~The provisions of~~ Sections 3052 and 3052b shall not apply to any service dealer registered with the Bureau of Repair Services pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code if the dealer reasonably believes that the serviced product is of nominal value. For purposes of this section, nominal value shall be ascertained as follows: the product is not readily salable for more than the legitimate charges against it, and either the original retail value of the product was under two hundred dollars ($200) and the product is over three years old, or the original retail value is over two hundred dollars ($200) and the product is over six years old.

Service dealers may use any available materials or information, including, but not limited to, industry publications, code dates, sales records, or receipts to assist in determining value and age of the serviced product.

(b) A service dealer may select one of the following alternative methods for the disposal of unclaimed serviced products determined to have a value as specified in subdivision (a):

(1) The service dealer may provide the owner of ~~such~~ *the* product with the following written notice to be mailed following completion of work on the serviced product:

DATE BROUGHT IN_____
DATE MAILED_____
DATE PRODUCT TO BE SOLD IF NOT CLAIMED
_____

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN $200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN $200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM *OR HER*.

The notice shall be sent by certified mail, return receipt requested. A serviced product may be disposed of 90 days after the date of deliverance evidenced by the signature in the returned receipt.

(2) The service dealer may publish public notice of the intended sale in a newspaper of general circulation. ~~Such~~ *The* notice shall contain a description of the serviced product, the name of the serviced product owner, and the time by which and place where the product may be redeemed. ~~Such~~ *The* notice shall be published for a minimum of five times. A serviced product may be disposed of 90 days after the last date of publication.

(3) A service dealer may, upon receipt of any product to be serviced by him *or her*, provide the owner of ~~such~~ *the* product with the following notice, written in at least 10-point ~~bold~~ *boldface* type:

DATE BROUGHT IN_____
DATE MAILED_____
DATE PRODUCT TO BE SOLD IF NOT CLAIMED
_____

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN $200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN $200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM *OR HER*.

PRINT YOUR NAME AND MAILING ADDRESS WHERE NOTICE MAY BE SENT TO YOU IN THE SPACE PROVIDED BELOW AND SIGN WHERE INDICATED TO SHOW THAT YOU HAVE READ THIS NOTICE.

_____
(Print Name)

_____
(Street Address)

_____
(City, State and ZIP Code)

IF YOU DO NOT AGREE WITH THE ABOVE DETERMINED VALUE OF YOUR ITEM, DO NOT SIGN THIS DOCUMENT.

Signature: _____
(Owner or Agent)

~~Such~~ *This* notice shall be signed, addressed, and dated by the owner, with a copy to be retained by both the owner and the service dealer. At the completion of service, the service dealer shall by first-class mail, mail a completed copy of ~~such~~ *the* notice to the owner of the ~~service~~ *serviced* product at the address given on the notice form. A serviced product may be disposed of 90 days after the date of mailing.

(c) For purposes of this section, an owner is the person or agent who authorizes the original service or repair, or delivers the product to the service dealer.

SEC. 58. Section 3262 of the Civil Code is amended to read:

3262. (a) Neither the owner nor original contractor by any term of ~~their~~ *a* contract, or otherwise, shall waive, affect, or impair the claims and liens of other persons whether with or without notice except by their written consent, and any term of the contract to that effect shall be null and void. Any written consent given by any claimant pursuant to this subdivision shall be null, void, and unenforceable unless and until the claimant executes and delivers a waiver and release. That waiver and release shall be binding and effective to release the owner, construction lender, and surety on a payment bond from claims and liens only if the waiver and release follows substantially one of the forms set forth in this section and is signed by the claimant or his or her authorized agent, and, in the case of a conditional release, there is evidence of payment to the claimant. Evidence of payment may be by the claimant's endorsement on a single or joint payee check ~~which~~ *that* has been paid by the bank upon which it was drawn or by written acknowledgment of payment given by the claimant.

(b) *(1)* No oral or written statement purporting to waive, release, impair, or otherwise adversely affect a claim is enforceable or creates any estoppel or impairment of a claim unless ~~(1) it~~ *either:*

(A) It is pursuant to a waiver and release prescribed ~~herein, or (2) the~~ *in this section.*

(B) The claimant had actually received payment in full for the claim. ~~Nothing~~

(2) Nothing in this section precludes a stop notice claimant from reducing the amount of, or releasing in its entirety, a stop notice that has been served upon an owner. The reduction or release of a stop notice, which shall be in writing, may be served in a form other than the forms of release set forth in this section. Any reduction or release of a stop notice: ~~(1) shall~~

(A) Shall not preclude the service of a subsequent stop notice that is timely and proper~~; (2) shall~~.

(B) Shall release the owner from any obligation to withhold money on account of the stop notice, to the extent of the reduction or release~~; (3) shall~~.

(C) Shall be effective to release the claimant's right to enforce the stop notice, to the extent of the reduction or release~~; and (4) shall~~.

(D) Shall not operate as a release of any right that the claimant may have, other than the claimant's right to enforce the stop notice, to the extent of the reduction or release.

(c) This section does not affect the enforceability of either an accord and satisfaction regarding a bona fide dispute or any agreement made in settlement of an action pending in any court provided the accord and satisfaction or agreement and settlement make specific reference to the mechanic's lien, stop notice, or bond claims.

(d) The waiver and release given by any claimant ~~hereunder~~ *pursuant to this section* shall be null, void, and unenforceable unless it follows substantially the following forms in the following circumstances:

(1) If the claimant is required to execute a waiver and release in exchange for, or in order to induce the payment of, a progress payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the following form:

CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Upon receipt by the undersigned of a check from _____in the sum of $_____
(Maker of Check) (Amount of Check)
payable to_____
(Payee or Payees of Check)
and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of
_____ located at _____
(Owner) (Job Description)

to the following extent. This release covers a progress payment for labor, services, equipment, or material furnished to
_____through_____
(Your Customer) (Date)
only and does not cover any retentions retained before or after the release date; extras furnished before the release date for which payment has not been received; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the progress payment. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.
Dated:_____ _____
(Company Name)
By_____
(Title)

(2) If the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a progress

payment and the claimant asserts in the waiver it has, in fact, been paid the progress payment, the waiver and release shall follow substantially the following form:

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

The undersigned has been paid and has received a progress payment in the sum of $____ for labor, services, equipment, or material furnished to _____on the job of_____

(Your Customer) (Owner)

located at _____ and does hereby

(Job Description)

release any mechanic's lien, stop notice, or bond right that the undersigned has on the above referenced job to the following extent. This release covers a progress payment for labor, services, equipment, or materials furnished to _____ through _____ only and

(Your Customer) (Date)

does not cover any retentions retained before or after the release date; extras furnished before the release date for which payment has not been received; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the progress payment.

Dated:_____ _____

(Company Name)

By_____

(Title)

Each unconditional waiver in this provision shall contain the following language, in at least as large a type as the largest type otherwise on the document:

“NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.”

(3) If the claimant is required to execute a waiver and release in exchange for, or in order to induce the payment of, a final payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the following form:

CONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

Upon receipt by the undersigned of a check from_____in the ~~the~~ sum of $____ payable to _____ and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of _____located at_____

(Owner) (Job Description)

This release covers the final payment to the undersigned for all labor, services, equipment, or material furnished on the job, except for disputed claims for additional work in the amount of $____. Before any recipient of this document relies on it, the party should verify evidence of payment to the undersigned.

Dated:_____ _____

(Company Name)

By_____

(Title)

(4) If the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a final payment and the claimant asserts in the waiver it has, in fact, been paid the final payment, the waiver and release shall follow substantially the following form:

UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

The undersigned has been paid in full for all labor, services, equipment, or material furnished to

_____on the job of_____
(Your Customer) (Owner)

located at_____and does
(Job Description)

hereby waive and release any right to a mechanic's lien, stop notice, or any right against a labor and material bond on the job, except for disputed claims for extra work in the amount of $ _____.

Dated:_____ _____
(Company Name)

By_____
(Title)

Each unconditional waiver in this provision shall contain the following language, in at least as large a type as the largest type otherwise on the document:

"NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM."

SEC. 59. Section 3415 of the Civil Code is amended to read:

3415. (a) An action may be maintained by any person interested in any private document or instrument in writing, which has been lost or ~~destoyed~~ *destroyed*, to prove or establish the document or instrument or to compel the issuance, execution, and acknowledgment of a duplicate of the document or instrument.

(b) If the document or instrument is a negotiable instrument, the court shall compel the owner of the negotiable instrument to give an indemnity bond to the person reissuing, reexecuting, or reacknowledging the same, against loss, damage, expense, or other liability ~~which~~ *that* may be suffered by the person by reason of the issuance of the duplicate instrument or by the original instrument still remaining outstanding.

SEC. 60. Section 77 of the Code of Civil Procedure is amended to read:

77. (a) In every county and city and county, there is an appellate division of the superior court consisting of three judges or, when the Chief Justice finds it necessary, four judges.

The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence and quality of each appellate division. Each judge assigned to the appellate division of a superior court shall be a judge of that court, a judge of the superior court of another county, or a judge retired from the superior court or a court of higher jurisdiction in this state.

The Chief Justice shall designate one of the judges of each appellate division as the presiding judge of the division.

(b) In each appellate division, no more than three judges shall participate in a hearing or decision. The presiding judge of the division shall designate the three judges who shall participate.

(c) In addition to their other duties, the judges designated as members of the appellate division of the superior court shall serve for the period specified in the order of designation. Whenever a judge is designated to serve in the appellate division of the superior court of a county other than the county in which that judge was elected or appointed as a superior court judge, or if the judge is retired, in a county other than the county in which the judge resides, the judge shall receive expenses for travel, board, and lodging. If the judge is out of the judge's county overnight or longer, by reason of the designation, that judge shall be paid a per diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for those purposes to justices of the Supreme Court under the rules of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*. In addition, a retired judge shall receive for the time so served, amounts equal to that which the judge would have received if the judge had been assigned to the superior court of the county.

(d) The concurrence of two judges of the appellate division of the superior court shall be necessary to render the decision in every case in, and to transact any other business except business that may be done at chambers by the presiding judge of, the division. The presiding judge shall convene the appellate division

when necessary. The presiding judge shall also supervise its business and transact any business that may be done at chambers.

(e) The appellate division of the superior court has jurisdiction on appeal in all cases in which an appeal may be taken to the superior court or the appellate division of the superior court as provided by law, except where the appeal is a retrial in the superior court.

(f) The powers of each appellate division shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the appellate division of the superior courts.

(g) The Judicial Council shall promulgate rules, not inconsistent with law, to promote the independence of, and govern the practice and procedure and the disposition of the business of, the appellate division.

(h) Notwithstanding ~~the provisions of~~ subdivisions (b) and (d), appeals from convictions of traffic infractions may be heard and decided by one judge of the appellate division of the superior court.

SEC. 61. Section 94 of the Code of Civil Procedure is amended to read:

94. Discovery is permitted only to the extent provided by this section and Section 95. This discovery shall comply with the notice and format requirements of the particular method of discovery, as provided in Title 4 (commencing with Section 2016.010) of Part 4. As to each adverse party, a party may use the following forms of discovery:

(a) Any combination of 35 of the following:

(1) Interrogatories (with no subparts) under Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4.

(2) Demands to produce documents or things under Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4.

(3) Requests for admission (with no subparts) under Chapter 16 (commencing with Section 2033.010) of Title 4 of Part 4.

(b) One oral or written deposition under Chapter 9 (commencing with Section 2025.010), Chapter 10 (commencing with Section 2026.010), or Chapter 11 (commencing with Section 2028.010) of Title 4 of Part 4. For purposes of this subdivision, a deposition of an organization shall be treated as a

single deposition even though more than one person may be designated or required to testify pursuant to Section 2025.230.

(c) Any party may serve on any person a deposition subpoena duces tecum requiring the person served to mail copies of documents, books, or records to the party's counsel at a specified address, along with an affidavit complying with Section 1561 of the Evidence Code.

The party who issued the deposition subpoena shall mail a copy of the response to any other party who tenders the reasonable cost of copying it.

(d) Physical and mental examinations under Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4.

(e) The identity of expert witnesses under Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4.

SEC. 62. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency ~~which~~ *that* originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not ~~to be~~ deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not ~~to be~~ deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) (1) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have

accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action.

(2) Notwithstanding paragraph (1), an action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later.

(3) Notwithstanding paragraph (1), an action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing ~~such an~~ *the* action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(*l*) An action commenced under Section 1603.1, 1615, or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

(n) An action commencing under Section 51.7 of the Civil Code.

SEC. 63. Section 417.10 of the Code of Civil Procedure is amended to read:

417.10. Proof that a summons was served on a person within this state shall be made:

(a) If served under Section 415.10, 415.20, or 415.30, by the affidavit of the person making ~~such~~ *the* service showing the time, place, and manner of service and facts showing that ~~such~~ *the* service was made in accordance with this chapter. ~~Such~~ *The* affidavit shall recite or in other manner show the name of the person to whom a copy of the summons and of the complaint were delivered, and, if appropriate, his *or her* title or the capacity in which he *or she* is served, and that the notice required by Section 412.30 appeared on the copy of the summons served, if in fact it did appear.

If service is made by mail pursuant to Section 415.30, proof of service shall include the ~~acknowledgement~~ *acknowledgment* of receipt of summons in the form provided by that section or other written acknowledgment of receipt of summons satisfactory to the court.

(b) If served by publication pursuant to Section 415.50, by the affidavit of the publisher or printer, or his ~~foreman~~ *or her foreperson* or principal clerk, showing the time and place of publication, and an affidavit showing the time and place a copy of the summons and of the complaint were mailed to the party to be served, if in fact mailed.

(c) If served pursuant to another ~~statute~~ *law* of this state, in the manner prescribed by ~~such statute~~ *that law* or, if no manner is prescribed, in the manner prescribed by this section for proof of a similar manner of service.

(d) By the written admission of the party.

(e) If served by posting pursuant to Section 415.45, by the affidavit of the person who posted the premises, showing the time and place of posting, and an affidavit showing the time and place copies of the summons and of the complaint were mailed to the party to be served, if in fact mailed.

(f) All proof of personal service shall be made on a form adopted by the Judicial Council.

SEC. 64. Section 460.7 of the Code of Civil Procedure is amended to read:

460.7. (a) In any action by a candidate or former candidate for elective public office against a holder of elective public office or an opposing candidate for libel or slander ~~which~~ *that* is alleged to have occurred during the course of an election campaign, the court shall order that the time to respond to the complaint is 20 days after the service of summons on the defendant. The order shall direct the clerk to endorse the summons to show that the time to respond has been shortened pursuant to this section. A copy of the affidavit and order shall be served with the summons.

(b) In any action ~~decribed~~ *described* in subdivision (a), unless otherwise ordered by the court for good cause shown, the time allowed the defendant to respond to the complaint or amend the answer under Section 586 shall not exceed 10 days.

(c) The court shall give any action described in subdivision (a) precedence over all other civil actions, except actions to which special precedence is given by law, in the matter of the setting of the case of hearing or trial, and in hearing the case, to the end that all actions described in subdivision (a) shall be quickly heard and determined. Except for good cause shown, the court shall not grant a continuance in excess of 10 days without the consent of the adverse party.

SEC. 65. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, 22962, or 22963 of the Business and Professions Code, Section 52, 52.1, 55.1, or 3494 of the Civil Code, the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code or the California Commodity Law of 1990 (Division 4.5 (commencing with Section 29500) of Title 4 of the Corporations Code), Section 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458, *12598,* 12606, 12607, ~~12598,~~ 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of

the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605, 30820, 30821.6, 30822, 42847, or 48023 of the Public Resources Code, Section 30101.7 of the Revenue and Taxation Code, or Section 275, 1052, 1845, 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, or 13385 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any ~~actions~~ *action* filed thereafter.

(c) The amendments made to this section by ~~the act adding this subdivision~~ *Chapter 227 of the Statutes of 2004* shall apply to any action pending on the effective date of these amendments and to any ~~actions~~ *action* filed thereafter.

SEC. 66. Section 1141.21 of the Code of Civil Procedure is amended to read:

1141.21. (a) *(1)* If the judgment upon the trial de novo is not more favorable in either the amount of damages awarded or the type of relief granted for the party electing the trial de novo than the arbitration award, the court shall order that party to pay the following nonrefundable costs and fees, unless the court finds in writing and upon motion that the imposition of ~~such~~ *these* costs and fees would create such a substantial economic hardship as not to be in the interest of justice:

~~(i)~~

(A) To the court, the compensation actually paid to the arbitrator, less any amount paid pursuant to ~~paragraph (iv)~~ *subparagraph (D)*.

~~(ii)~~

(B) To the other party or parties, all costs specified in Section 1033.5, and the party electing the trial de novo shall not recover his or her costs.

~~(iii)~~

(C) To the other party or parties, the reasonable costs of the services of expert witnesses, who are not regular employees of any party, actually incurred or reasonably necessary in the preparation or trial of the case.

~~(iv)~~

(D) To the other party or parties, the compensation paid by the other party or parties to the arbitrator, pursuant to subdivision (b) of Section 1141.28.

~~Such~~

(2) Those costs and fees, other than the compensation of the arbitrator, shall include only those incurred from the time of election of the trial de novo.

(b) If the party electing the trial de novo has proceeded in the action in forma pauperis and has failed to obtain a more favorable judgment, the costs and fees under ~~paragraphs (ii) and (iii)~~ *subparagraphs (B) and (C) of paragraph (1)* of subdivision (a) shall be imposed only as an offset against any damages awarded in favor of that party.

(c) If the party electing the trial de novo has proceeded in the action in forma pauperis and has failed to obtain a more favorable judgment, the costs under *subparagraph (A) of* paragraph ~~(i)~~ *(1)* of subdivision (a) shall be imposed only to the extent that there remains a sufficient amount in the judgment after the amount offset under subdivision (b) has been deducted from the judgment.

SEC. 67. Section 1245.320 of the Code of Civil Procedure is amended to read:

1245.320. As used in this article, "quasi-public entity" means:

(a) An educational institution of collegiate grade not conducted for profit that seeks to take property by eminent domain under Section ~~30051~~ *94500* of the Education Code.

(b) A nonprofit hospital that seeks to take property by eminent domain under Section 1260 of the Health and Safety Code.

(c) A cemetery authority that seeks to take property by eminent domain under Section 8501 of the Health and Safety Code.

(d) A limited-dividend housing corporation that seeks to take property by eminent domain under Section 34874 of the Health and Safety Code.

(e) A land-chest corporation that seeks to take property by eminent domain under *former* Section 35167 of the Health and Safety Code.

(f) A mutual water company that seeks to take property by eminent domain under Section 2729 of the Public Utilities Code.

SEC. 68. Section 1345 of the Code of Civil Procedure is amended to read:

1345. ~~Whenever~~ *If* any person has erroneously delivered any unclaimed ~~money~~ *moneys* or other unclaimed property to the ~~State~~ *state* or any officer or employee thereof, and ~~such money~~ *the moneys* or other property is deposited in the Unclaimed Property Fund or is held by the Controller or Treasurer in the name of any account in ~~such~~ *that* fund pursuant to ~~the provisions of~~ this title, ~~such money~~ *the moneys* or other property delivered in error may be refunded or returned to ~~such~~ *that* person on order of the Controller, with the approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 69. Section 1346 of the Code of Civil Procedure is amended to read:

1346. ~~Whenever~~ *If* any person has erroneously delivered any unclaimed ~~money~~ *moneys* or other unclaimed property to the state or any officer or employee thereof, and ~~such money~~ *the moneys* or other property is deposited in, or transferred to, the General Fund, or is held by the Controller or Treasurer in the name of ~~such~~ *that* fund, pursuant to ~~the provisions of~~ this title, ~~such money~~ *the moneys* or other property delivered in error, if cash, shall on order of the Controller, be transferred from the General Fund to the Unclaimed Property Fund, and, if other than cash, the records of the Controller and Treasurer shall be adjusted to show that it is held in the name of the proper account in the Unclaimed Property Fund; and ~~any such money~~ *the moneys* or other property may be refunded or returned to ~~such~~ *that* person on order of the Controller, with the approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 70. Section 1370 of the Code of Civil Procedure is amended to read:

1370. The Controller, with the prior approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, may sell or lease personal property at any time, and in any manner, and may execute ~~such~~ *those* leases on behalf and in the name of the State of California.

SEC. 71. Section 1371 of the Code of Civil Procedure is amended to read:

1371. The Controller, with the prior approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, may sell, cash, redeem, exchange, or otherwise dispose of any securities and all other classes of personal property, and may sell, cash, redeem, exchange, compromise, adjust, settle, or otherwise dispose of any accounts, debts, contractual rights, or other choses in action ~~whenever~~ *if*, in his *or her* opinion, ~~such~~ *that* action on his *or her* part is necessary or will tend to safeguard and conserve the interests of all parties, including the ~~State~~ *state*, having any vested or expectant interest in the property.

SEC. 72. Section 1375 of the Code of Civil Procedure is amended to read:

1375. With the approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, any real property may be sold or leased by the Controller at private sale without published notice.

SEC. 73. Section 1379 of the Code of Civil Procedure is amended to read:

1379. With the prior approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, the Controller may destroy or otherwise dispose of any personal property other than cash deposited in the State Treasury under ~~the provisions of~~ this title, if ~~such~~ *that* property is determined by him *or her* to be valueless or of such little value that the costs of conducting a sale would probably exceed the amount that would be realized ~~therefrom;~~ *from the sale,* and neither the Treasurer nor Controller shall be held to respond in damages at the suit of any person claiming loss by reason of ~~such~~ *that* destruction or disposition.

SEC. 74. Section 1775.14 of the Code of Civil Procedure is amended to read:

1775.14. *(a)* On or before January 1, 1998, the Judicial Council shall submit a report to the Legislature concerning court alternative dispute resolution programs. This report shall include, but not be limited to, a review of programs operated in Los Angeles County and other courts that have elected to apply this title, and shall examine, among other things, the effect of this title on the judicial arbitration programs of courts that have participated in that program.

(b) The Judicial Council shall, by rule, require that each court applying this title file with the Judicial Council ~~such~~ data ~~as~~ *that* will enable the Judicial Council to submit the report required by subdivision (a).

SEC. 75. Section 1800 of the Code of Civil Procedure is amended to read:

1800. (a) ~~In~~ *As used in* this section, *the following terms have the following meanings*:

(1) ~~The term "insolvent"~~ "*Insolvent*" means:

(A) With reference to a person other than a partnership, a financial condition such that the sum of the person's debts is greater than all of the person's property, at a fair valuation, exclusive of both of the following:

(i) Property transferred, concealed, or removed with intent to hinder, delay, or defraud the person's creditors.

(ii) Property that is exempt from property of the estate pursuant to the election of the person made pursuant to Section 1801.

(B) With reference to a partnership, financial condition such that the sum of the partnership's debts are greater than the aggregate of, at a fair valuation, both of the following:

(i) All of the partnership's property, exclusive of property of the kind specified in clause (i) *of* subparagraph (A).

(ii) The sum of the excess of the value of each general partner's separate property, exclusive of property of the kind specified in clause (ii) of subparagraph (A), over the partner's separate debts.

(2) ~~The term "inventory"~~ "*Inventory*" means personal property leased or furnished, held for sale or lease, or to be furnished under a contract for service, raw materials, work in process, or materials used or consumed in a business, including farm products such as crops or livestock, held for sale or lease.

(3) ~~The term "insider"~~ "*Insider*" means:

(A) If the assignor is an individual, any of the following:

(i) A relative of the assignor or of a general partner of the assignor.

(ii) A partnership in which the assignor is a general partner.

(iii) A general partner of the assignor.

(iv) A corporation of which the assignor is a director, officer, or person in control.

(B) If the assignor is a corporation, any of the following:
(i) A director of the assignor.
(ii) An officer of the assignor.
(iii) A person in control of the assignor.
(iv) A partnership in which the assignor is a general partner.
(v) A general partner of the assignor.
(vi) A relative of a general partner, director, officer, or person in control of the assignor.
(C) If the assignor is a partnership, any of the following:
(i) A general partner in the assignor.
(ii) A relative of a general partner in, general partner of, or person in control of the assignor.
(iii) A partnership in which the assignor is a general partner.
(iv) A general partner of the assignor.
(v) A person in control of the assignor.
(D) An affiliate of the assignor or an insider of an affiliate as if the affiliate were the assignor.
(E) A managing agent of the assignor.
As used in this paragraph, ~~"relative"~~ *the following terms have the following meanings:*
"Relative" means an individual related by affinity or consanguinity ~~with~~ *within* the third degree as determined by the common law, or an individual in a step or adoptive relationship within the third degree~~; and an~~.
An "affiliate" means a person that directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the assignor, or 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the assignor ~~(excluding~~, *excluding* securities held in a fiduciary or agency capacity without sole discretionary power to vote, or held solely to secure a debt if the holder has not in fact exercised the power to ~~vote)~~ *vote*, or a person who operates the business of the assignor under a lease or operating agreement or whose business is operated by the assignor under a lease or operating agreement.
(4) ~~The term "judicial~~ "*Judicial* lien" means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.
(5) ~~The term "new~~ "*New* value" means money or money's worth in goods, services, or new credit, or release by a transferee

of property previously transferred to the transferee in a transaction that is neither void nor voidable by the assignor or the assignee under any applicable law, but does not include an obligation substituted for an existing obligation.

(6) ~~The term "receivable"~~ *"Receivable"* means a right to payment, whether or not the right has been earned by performance.

(7) ~~The term "security~~ *"Security* agreement" means an agreement that creates or provides for a security interest.

(8) ~~The term "security~~ *"Security* interest" means a lien created by an agreement.

(9) ~~The term "statutory~~ *"Statutory* lien" means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include *a* security interest or judicial lien, whether or not the interest or lien is provided by or is dependent on a statute and whether or not the interest or lien is made fully effective by statute.

(10) ~~The term "transfer"~~ *"Transfer"* means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, or disposing of or parting with property or with an interest in property, including retention of title as a security interest.

(b) Except as provided in subdivision (c), the assignee of any general assignment for the benefit of creditors ~~(as~~, *as* defined in Section ~~493.010)~~ *493.010*, may recover any transfer of property of the assignor *that is all of the following*:

(1) To or for the benefit of a creditor~~;~~.

(2) For or on account of an antecedent debt owed by the assignor before the transfer was made~~;~~.

(3) Made while the assignor was insolvent~~;~~.

(4) Made on or within 90 days before the date of the making of the assignment or made between 90 days and one year before the date of making the assignment if the creditor, at the time of the transfer, was an insider and had reasonable cause to believe the debtor was insolvent at the time of the transfer~~; and~~.

(5) ~~That enables~~ *Enables* the creditor to receive more than another creditor of the same class.

(c) The assignee may not recover under this section a transfer *as follows*:

(1) To the extent that the transfer was *both of the following*:

(A) Intended by the assignor and the creditor to or for whose benefit the transfer was made to be a contemporaneous exchange for new value given to the assignor~~; and~~.

(B) In fact a substantially contemporaneous exchange~~;~~.

(2) To the extent that the transfer was *all of the following*:

(A) In payment of a debt incurred in the ordinary course of business or financial affairs of the assignor and the transferee~~;~~.

(B) Made in the ordinary course of business or financial affairs of the assignor and the transferee~~; and~~.

(C) Made according to ordinary business terms~~;~~.

(3) Of a security interest in property acquired by the assignor *that meets both of the following*:

(A) To the extent the security interest secures new value that was *all of the following*:

(i) Given at or after the signing of a security agreement that contains a description of the property as collateral~~;~~.

(ii) Given by or on behalf of the secured party under the agreement~~;~~.

(iii) Given to enable the assignor to acquire the property~~; and~~.

(iv) In fact used by the assignor to acquire the property~~; and~~.

(B) That is perfected within 20 days after the security interest attaches~~;~~.

(4) To or for the benefit of a creditor, to the extent that, after the transfer, the creditor gave new value to or for the benefit of the assignor *that meets both of the following*:

(A) Not secured by an otherwise unavoidable security interest~~; and~~.

(B) On account of which new value the assignor did not make an otherwise unavoidable transfer to or for the benefit of the creditor~~;~~.

(5) Of a perfected security interest in inventory or a receivable or the proceeds of either, except to the extent that the aggregate of all the transfers to the transferee caused a reduction, as of the date of the making of the assignment and to the prejudice of other creditors holding unsecured claims, of any amount by which the debt secured by the security interest exceeded the value of all security interest for the debt on the later of *the following*:

(A) Ninety days before the date of the making of the assignment.

(B) The date on which new value was first given under the security agreement creating the security interest~~; or~~.

(6) That is the fixing of a statutory lien.

(7) That is payment to a claimant, as defined in Section 3085 of the Civil Code, in exchange for the claimant's waiver or release of any potential or asserted claim of lien, stop notice, or right to recover on a payment bond, or any combination thereof.

(8) To the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of, the spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, or a determination made in accordance with state or territorial law by a governmental unit, or property settlement agreement; but not to the extent that either of the following occurs:

(A) The debt is assigned to another entity voluntarily, by operation of law or otherwise, in which case~~,~~ the assignee may not recover that portion of the transfer that is assigned to the state or any political subdivision of the state pursuant to Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 601~~, et.~~ *et* seq.) and passed on to the spouse, former spouse, or child of the debtor.

(B) The debt includes a liability designated as alimony, maintenance, or support, unless the liability is actually in the nature of alimony, maintenance, or support.

(d) An assignee of any general assignment for the benefit of creditors ~~(as~~, *as* defined in Section ~~493.010)~~ *493.010*, may avoid a transfer of property of the assignor transferred to secure reimbursement of a surety that furnished a bond or other obligation to dissolve a judicial lien that would have been avoidable by the assignee under subdivision (b) ~~of this section~~. The liability of the surety under the bond or obligation shall be discharged to the extent of the value of the property recovered by the assignee or the amount paid to the assignee.

(e) (1) For the purposes of this section:

(A) A transfer of real property other than fixtures, but including the interest of a seller or purchaser under a contract for the sale of real property, is perfected when a bona fide purchaser of the property from the debtor, against whom applicable law

permits the transfer to be perfected, cannot acquire an interest that is superior to the interest of the transferee.

(B) A transfer of a fixture or property other than real property is perfected when a creditor on a simple contract cannot acquire a judicial lien that is superior to the interest of the transferee.

(2) For the purposes of this section, except as provided in paragraph (3), a transfer is made at any of the following times:

(A) At the time the transfer takes effect between the transferor and the transferee, if the transfer is perfected at, or within 10 days after, the time, except as provided in subparagraph (B) of paragraph (3) of subdivision (c).

(B) At the time the transfer is perfected, if the transfer is perfected after the 10 days.

(C) Immediately before the date of ~~the~~ making ~~of~~ the assignment if the transfer is not perfected at the later of:

(i) The making of the assignment.

(ii) Ten days after the transfer takes effect between the transferor and the transferee.

(3) For the purposes of this section, a transfer is not made until the assignor has acquired rights in the property transferred.

(f) For the purposes of this section, the assignor is presumed to have been insolvent on and during the 90 days immediately preceding the date of ~~the~~ making ~~of~~ the assignment.

(g) An action by an assignee under this section must be commenced within one year after ~~the~~ making ~~of~~ the assignment.

SEC. 76. Section 1985.6 of the Code of Civil Procedure is amended to read:

1985.6. (a) For purposes of this section, the following terms have the following meanings:

(1) “Deposition officer” means a person who meets the qualifications specified in Section 2020.420.

(2) “Employee” means any individual who is or has been employed by a witness subject to a subpoena duces tecum. “Employee” also means any individual who is or has been represented by a labor organization that is a witness subject to a subpoena duces tecum.

(3) “Employment records” means the original or any copy of books, documents, other writings, or electronic data pertaining to the employment of any employee maintained by the current or

former employer of the employee, or by any labor organization that has represented or currently represents the employee.

(4) "Labor organization" has the meaning set forth in Section 1117 of the Labor Code.

(5) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding, but does not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(b) Prior to the date called for in the subpoena duces tecum of the production of employment records, the subpoenaing party shall serve or cause to be served on the employee whose records are being sought a copy of: the subpoena duces tecum; the affidavit supporting the issuance of the subpoena, if any; the notice described in subdivision (e); and proof of service as provided in paragraph (1) of subdivision (c). This service shall be made as follows:

(1) To the employee personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 2, or, if he or she is a party, to his or her attorney of record. If the employee is a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor, or with whom the minor resides, and on the minor if the minor is at least 12 years of age.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(3) At least five days prior to service upon the custodian of the employment records, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall either:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the employee or by his or her attorney of record. The witness may presume that the attorney purporting to sign the authorization on behalf of the employee acted with the consent of the employee, and that any objection to the release of records is waived.

(d) A subpoena duces tecum for the production of employment records shall be served in sufficient time to allow the witness a reasonable time, as provided in Section 2020.410, to locate and produce the records or copies thereof.

(e) Every copy of the subpoena duces tecum and affidavit served on an employee or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) employment records about the employee are being sought from the witness named on the subpoena; (2) the employment records may be protected by a right of privacy; (3) if the employee objects to the witness furnishing the records to the party seeking the records, the employee shall file papers with the court prior to the date specified for production on the subpoena; and (4) if the subpoenaing party does not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the employee's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) *(1)* Any employee whose employment records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness and the deposition officer at least five days prior to production. The failure to provide notice to the deposition officer does not invalidate the motion to quash or modify the subpoena duces tecum but may be raised by the deposition officer as an affirmative defense in any action for liability for improper release of records.

(2) Any nonparty employee whose employment records are sought by a subpoena duces tecum may, prior to the date of production, serve on the subpoenaing party, the deposition officer, and the witness a written objection that cites the specific grounds on which production of the employment records should be prohibited.

(3) No witness or deposition officer shall be required to produce employment records after receipt of notice that the motion has been brought by an employee, or after receipt of a written objection from a nonparty employee, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and employees affected.

(4) The party requesting an employee's employment records may bring a motion under subdivision (c) of Section 1987 to enforce the subpoena within 20 days of service of the written objection. The motion shall be accompanied by a declaration showing a reasonable and good faith attempt at informal resolution of the dispute between the party requesting the employment records and the employee or the employee's attorney.

(g) Upon good cause shown and provided that the rights of witnesses and employees are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) ~~where~~ *if* due diligence by the subpoenaing party has been shown.

(h) This section may not be construed to apply to any subpoena duces tecum that does not request the records of any particular employee or employees and that requires a custodian of records to delete all information ~~which~~ *that* would in any way identify any employee whose records are to be produced.

(i) This section does not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200), of the Labor Code.

(j) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the employment records sought by subpoena duces tecum.

(k) If the subpoenaing party is the employee, and the employee is the only subject of the subpoenaed records, notice to the employee, and delivery of the other documents specified in subdivision (b) to the employee, ~~is~~ *are* not required under this section.

SEC. 77. Section 16101 of the Commercial Code is amended to read:

16101. The repeal and addition of Division 3 (commencing with Section 3101) and the repeal and addition, the amendment, and the addition of provisions of Division 4 (commencing with Section 4101), and the amendment of related sections, adopted by the Legislature in Chapter 914 of the Statutes of 1992, shall become effective on January 1, 1993. The Legislature intends that ~~the that~~ *this* action be construed as an amendment of Division 3 (commencing with Section 3101) and Division 4 (commencing with Section 4101), notwithstanding that the action took the form of a repeal and addition of Division 3 (commencing with Section 3101), and a repeal and addition to, and amendment of, or an addition to the provisions of Division 4 (commencing with Section 4101).

SEC. 78. Section 118 of the Corporations Code is amended to read:

118. Any reference in this division to the time a notice is given or sent means, unless otherwise expressly provided, ~~(a) the~~ *any of the following:*

(a) The time a written notice by mail is deposited in the United States mails, postage prepaid~~; or (b) the~~.

(b) The time any other written notice, including facsimile, telegram, or electronic mail message, is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient~~; or (c) the~~.

(c) The time any oral notice is communicated, in person or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, or wireless, to the recipient, including the recipient's designated voice mailbox or address on ~~such a~~ *the* system, or to a person at the office of the recipient who the person giving the notice has reason to ~~belive~~ *believe* will promptly communicate it to the recipient.

SEC. 79. Section 7312 of the Corporations Code is amended to read:

7312. No person may hold more than one membership, and no fractional memberships may be held, ~~provided, however, that~~ *except as follows*:

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in a manner or under the circumstances prescribed by, the articles or bylaws subject to Section 7612.

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold a membership in one or more classes.

(c) Any branch, division, or office of any person, which is not formed primarily to be a member, may hold a separate membership.

(d) In the case of membership in an ~~owners~~ *owners'* association, ~~(as defined in Section 11003.1 of the Business and Professions Code, and~~ created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions ~~Code)~~ *Code*, the articles or bylaws may permit a person who owns an interest, or who has a right of exclusive occupancy, in more than one lot, parcel, area, apartment, or unit to hold a separate membership in the owners' association for each lot, parcel, area, apartment, or unit.

(e) In the case of membership in a mutual water company, as defined in Section 14300 ~~of the Corporations Code~~, the articles or bylaws may permit a person entitled to membership by reason of the ownership, lease, or right of occupancy of more than one lot, parcel, or other service unit to hold a separate membership in the mutual water company for each ~~such~~ lot, parcel, or other service unit.

(f) In the case of membership in a mobilehome park acquisition corporation, as described in Section 11010.8 of the Business and Professions Code, a bona fide secured party who has, pursuant to a security interest in a membership, taken title to the membership by way of foreclosure, repossession, or voluntary repossession, and who is actively attempting to resell the membership to a prospective homeowner or resident of the mobilehome park, may own more than one membership.

SEC. 80. Section 8724 of the Corporations Code is amended to read:

8724. Without the approval of 100 percent of the members, any contrary provision in this part or the articles or bylaws notwithstanding, so long as there is any lot, parcel, area, apartment, or unit for which an ~~owners~~ *owners'* association ~~(as defined in Section 11003.1 of the Business and Professions Code and~~, created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions ~~Code)~~ *Code*, is obligated to provide management, maintenance, preservation, or control, *the following shall apply*:

(a) The ~~owners~~ *owners'* association or any person acting on its behalf shall not *do either of the following*:

(1) Transfer all or substantially all of its assets~~; or~~.

(2) File a certificate of dissolution~~; and~~.

(b) No court shall enter an order declaring the ~~owners~~ *owners'* association duly wound up and dissolved.

SEC. 81. Section 12663 of the Corporations Code is amended to read:

12663. Without the approval of 100 percent of the members, any contrary provision in this part or the articles or bylaws notwithstanding, so long as there is any lot, parcel, area, apartment or unit for which an ~~owners~~ *owners'* association ~~(as defined in Section 11003.1 of the Business and Professions Code and~~, created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions ~~Code)~~ *Code*, is obligated to provide management, maintenance, preservation, or control, *the following shall apply*:

(a) The ~~owners~~ *owners'* association or any person acting on its behalf shall not *do either of the following*:

(1) Transfer all or substantially all of its assets~~; or~~.

(2) File a certificate of dissolution~~; and~~.

(b) No court shall enter an order declaring the ~~owners~~ *owners'* association duly wound up and dissolved.

SEC. 82. Section 17104 of the Corporations Code is amended to read:

17104. (a) Meetings of members may be held at any place, by electronic video screen communication or by electronic transmission by and to the limited liability company ~~(paragraphs~~ *pursuant to paragraphs* (1) and (2) of subdivision (o) of Section

~~17001)~~ *17001*, either within or without this state, selected by the person or persons calling the meeting or as may be stated in or fixed in accordance with the articles of organization or a written operating agreement. If no other place is stated or so fixed, all meetings shall be held at the principal executive office of the limited liability company. Unless prohibited by the articles of organization of the limited liability company, if authorized by the operating agreement, members not physically present in person or by proxy at a meeting of members may, by electronic transmission by and to the limited liability company ~~(paragraphs~~ *pursuant to paragraphs* (1) and (2) of subdivision (o) of Section ~~17001)~~ *17001* or by electronic video screen communication, participate in a meeting of members, be deemed present in person or by proxy, and vote at a meeting of members whether that meeting is to be held at a designated place or in whole or in part by means of electronic transmission by and to the limited liability company or by electronic video screen communication, in accordance with subdivision (*l*).

(b) A meeting of the members may be called by any manager or by any member or members representing more than 10 percent of the interests of members for the purpose of addressing any matters on which the members may vote.

(c) (1) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 days nor more than 60 days before the date of the meeting to each member entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting, the means of electronic transmission by and to the limited liability company or electronic video screen communication, if any, and the general nature of the business to be transacted. No other business may be transacted at this meeting.

(2) Any report or any notice of a members' meeting shall be given personally, by electronic transmission by the limited liability company, or by mail or other means of written communication, addressed to the member at the address of the member appearing on the books of the limited liability company or given by the member to the limited liability company for the purpose of notice, or, if no address appears or is given, at the place where the principal executive office of the limited liability company is located or by publication at least once in a newspaper

of general circulation in the county in which the principal executive office is located. The notice or report shall be deemed to have been given at the time when delivered personally, ~~or~~ delivered by electronic transmission by the limited liability company, ~~or~~ deposited in the mail, or sent by other means of written communication. An affidavit of mailing or delivered by electronic transmission by the limited liability company of any notice or report in accordance with ~~the provisions of~~ this article, executed by a manager, shall be prima facie evidence of the giving of the notice or report.

(3) If any notice or report addressed to the member at the address of the member appearing on the books of the limited liability company is returned to the limited liability company by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at the address, all future notices or reports shall be deemed to have been duly given without further mailing if they are available for the member at the principal executive office of the limited liability company for a period of one year from the date of the giving of the notice or report to all other members.

(4) Notice given by electronic transmission by the limited liability company under this subdivision shall be valid only if it complies with paragraph (1) of subdivision (o) of Section 17001. Notwithstanding ~~the foregoing~~ *this condition*, notice shall not be given by electronic transmission by the limited liability company under this subdivision after either of the following:

(A) The limited liability company is unable to deliver two consecutive notices to the member by that means.

(B) The inability to so deliver the notices to the member becomes known to the secretary, any assistant secretary, the transfer agent, or *any* other person responsible for the giving of the notice.

~~(3)~~

(5) Upon written request to a manager by any person entitled to call a meeting of members, the manager shall immediately cause notice to be given to the members entitled to vote that a meeting will be held at a time requested by the person calling the meeting, not less than 10 days nor more than 60 days after the receipt of the request. If the notice is not given within 20 days

after receipt of the request, the person entitled to call the meeting may give the notice or, upon the application of that person, the superior court of the county in which the principal executive office of the limited liability company is located, or if the principal executive office is not in this state, the county in which the limited liability company's address in this state is located, shall summarily order the giving of the notice, after notice to the limited liability company affording it an opportunity to be heard. The procedure provided in subdivision (c) of Section 305 shall apply to the application. The court may issue any order as may be appropriate, including, without limitation, an order designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the articles of organization or a written operating agreement otherwise require and, except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof or the means of electronic transmission by and to the limited liability company or electronic video screen communication, if any, are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the limited liability company may transact any business that may have been transacted at the original meeting. If the adjournment is for more than 45 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

(e) The actions taken at any meeting of members, however called and noticed, and wherever held, have the same validity as if taken at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the members entitled to vote, not present in person or by proxy, provides a waiver of notice or consents to the holding of the meeting or approves the minutes of the meeting in writing. All waivers, consents, and approvals shall be filed with the limited liability company records or made a part of the minutes of the meeting after conversion to the form in which those records or minutes are kept. Attendance of a person at a meeting shall constitute a waiver of notice of the meeting,

except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this title to be included in the notice but not so included, if the objection is expressly made at the meeting. Neither the business to be transacted nor the purpose of any meeting of members need be specified in any written waiver of notice, unless otherwise provided in the articles of organization or operating agreement, except as provided in subdivision (g).

(f) Members may participate in a meeting of the limited liability company through the use of conference telephones or electronic video screen communication, as long as all members participating in the meeting can hear one another, or by electronic transmission by and to the limited liability company pursuant to paragraphs (1) and (2) of subdivision (o) of Section 17001. Participation in a meeting pursuant to this provision constitutes presence in person at that meeting.

(g) Any action approved at a meeting, other than by unanimous approval of those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(h) (1) A majority in interest of the members represented in person or by proxy shall constitute a quorum at a meeting of members.

(2) The members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the loss of a quorum, if any action taken after loss of a quorum, other than adjournment, is approved by the requisite percentage of interests of members specified in this title or in the articles of organization or a written operating agreement.

(3) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the interests represented either in person or by proxy, but no other business may be transacted, except as provided in paragraph (2).

(i) (1) Any action that may be taken at any meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed and delivered to the limited liability company within 60 days of the record date for

that action by members having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all members entitled to vote thereon were present and voted.

(2) Unless the consents of all members entitled to vote have been solicited in writing, (A) notice of any member approval of an amendment to the articles of organization or operating agreement, a dissolution of the limited liability company as provided in Section 17350, or a merger of the limited liability company as provided in Section 17551, without a meeting by less than unanimous written consent shall be given at least 10 days before the consummation of the action authorized by ~~such~~ *the* approval, and (B) prompt notice shall be given of the taking of any other action approved by members without a meeting by less than unanimous written consent, to those members entitled to vote who have not consented in writing.

(3) Any member giving a written consent, or the member's proxyholder, may revoke the consent personally or by proxy by a writing received by the limited liability company prior to the time that written consents of members having the minimum number of votes that would be required to authorize the proposed action have been filed with the limited liability company, but may not do so thereafter. This revocation is effective upon its receipt at the office of the limited liability company required to be maintained pursuant to Section 17057.

(j) The use of proxies in connection with this section will be governed in the same manner as in the case of corporations formed under the General Corporation Law.

(k) In order that the limited liability company may determine the members of record entitled to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights in respect of any other lawful action, a manager, or members representing more than 10 percent of the interests of members, may fix, in advance, a record date, that is not more than 60 days nor less than 10 days prior to the date of the meeting and not more than 60 days prior to any other action. If no record date is fixed *the following shall apply*:

(1) The record date for determining members entitled to notice of or to vote at a meeting of members shall be at the close of business on the business day next preceding the day on which

notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(2) The record date for determining members entitled to give consent to limited liability company action in writing without a meeting shall be the day on which the first written consent is given.

(3) The record date for determining members for any other purpose shall be at the close of business on the day on which the managers adopt the resolution relating thereto, or the 60th day prior to the date of the other action, whichever is later.

(4) The determination of members of record entitled to notice of or to vote at a meeting of members shall apply to any adjournment of the meeting unless a manager or the members who called the meeting fix a new record date for the adjourned meeting, but the manager or the members who called the meeting shall fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

(*l*) A meeting of the members may be conducted, in whole or in part, by electronic transmission by and to the limited liability company or by electronic video screen communication ~~(1)~~ if ~~the~~ *both of the following requirements are met:*

(1) The limited liability company implements reasonable measures to provide members ~~(in~~, *in* person or by ~~proxy)~~ *proxy*, a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings~~, and (2) if~~.

(2) When any member votes or takes other action at the meeting by means of electronic transmission to the limited liability company or electronic video screen communication, a record of that vote or action is maintained by the limited liability company.

SEC. 83. Section 25100.1 of the Corporations Code is amended to read:

25100.1. The following securities are not subject to Sections 25110, 25120, and 25130:

(a) A security defined as a "covered security" pursuant to Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. *Sec.* 77r).

(b) A security issued by an investment company that is registered or that has filed a registration statement under the Investment Company Act of 1940 (15 U.S.C. *Sec.* 80a-1) and that is defined as a "covered security" pursuant to Section 18(b)(2) of the Securities Act of 1933, and all the following requirements are met:

(1) Prior to any offer or sale in this state, there is filed with or paid to the commissioner each of the following:

(A) A notice consisting of all documents that are part of a federal registration statement filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or, in lieu thereof, a form prescribed by the commissioner, and that a consent to service of process is either on file with the commissioner or is attached to the notice.

(B) As necessary to compute fees, a report of the value of securities covered under this subdivision that are offered or sold in this state.

(C) The notice filing fee provided for in subdivision (a) of Section 25608.1.

(2) If any offer or sale is to be made pursuant to Section 18(b)(2) of the Securities Act of 1933 and this subdivision more ~~the~~ *than* 12 months after the date the notice was filed under this subdivision, the issuer shall file another notice and pay the fee specified in subparagraph (C) of paragraph (1).

SEC. 84. Section 1753 of the Education Code is amended to read:

1753. The services described in ~~Section~~ *Sections* 1750, 1751, and 1752 shall be performed by persons who hold a valid health and development credential, or life diploma based thereon, or a services credential with a specialization in health issued by the ~~State Board of Education~~ *state board* or Commission for Teacher Preparation and Licensing; provided, however, that a psychologist may be employed to perform psychological services or may perform psychological services under contract if he *or she* is the holder of a valid school psychologist credential issued by the ~~State Board of Education~~ *state board*.

SEC. 85. Section 1762 of the Education Code is amended to read:

1762. The services described in ~~Section~~ *Sections* 1760 and 1761 shall be performed by persons who hold a valid credential

issued by the ~~State Board of Education~~ *state board* or Commission for Teacher Preparation and Licensing authorizing performance of the services.

SEC. 86. Section 7002.5 of the Education Code is amended to read:

7002.5. (a) This article does not create a vested retirement right in health and dental care benefits.

(b) The individual districts, the county office, a health plan, an entity ~~proving~~ *providing* or arranging a health plan, and the State Teachers' Retirement System do not have any legal duty to contact retired teachers or surviving spouses of certificated employees with regard to this article.

SEC. 87. Section 8275 of the Education Code is amended to read:

8275. (a) The Superintendent ~~of Public Instruction~~ may reimburse approvable ~~start-up~~ *startup* costs of child development agencies or facilities in an amount not to exceed 15 percent of the expansion or increase of each ~~such~~ agency's total contract amount. Under no circumstances shall reimbursement for ~~start-up~~ *startup* costs result in an increase in the agency's total contract amount. ~~Such~~ *These* funds shall be available for all of the following:

(1) The employment and orientation of necessary staff.

(2) The setting up of the program and facility.

(3) The finalization of rental agreements and the making of necessary deposits.

(4) The purchase of a reasonable inventory of materials and supplies.

(5) The purchase of an initial premium for insurance.

(b) Agencies shall submit claims for ~~start-up~~ *startup* costs with their first quarterly reports.

(c) The Legislature recognizes that allowances for startup costs are necessary for the establishment and stability of new child development programs. Programs initially funded in the 1978–79 fiscal year and 1979–80 fiscal year are included in ~~the provisions of~~ this section.

SEC. 88. Section 8363.5 of the Education Code is amended to read:

8363.5. *(a)* A special child development permit shall be issued to any person employed as a supervisor, head teacher, or

teacher by an agency conducting a child care and development program under contract with a county who did not meet the requirements for an emergency instructional permit authorizing service in children's centers or a supervisor's permit with postponement of requirements authorizing service in a children's center in effect on October 15, 1974. A special child development permit issued pursuant to this section shall be valid for 36 months after its date of issuance. Within the 36-month period following the date of issuance of ~~such a~~ *the* permit, *the following shall apply*:

~~(a)~~

(1) A person employed as a head teacher or teacher who has completed 30 semester hours of coursework taken in an approved institution, including 12 semester hours of coursework in subject fields related to early childhood education, shall be issued an emergency instructional permit authorizing service in a children's center and be subject to the term and renewal regulations in effect on October 15, 1974.

~~(b)~~

(2) A person employed as a supervisor who has obtained a bachelor's degree from an approved institution and completed at least 12 semester hours of coursework in subject ~~field~~ *fields* related to early childhood education shall be issued a supervision permit with postponement of requirements authorizing service in children's centers and be subject to the term and renewal regulations in effect on October 15, 1974.

(b) It is the intention of the Legislature that this section be liberally interpreted to ~~insure~~ *ensure* that those experienced and qualified persons employed in county contract day care centers prior to July 1, 1974, maintain their positions and be given ample opportunity to upgrade their skills to meet revised educational standards.

SEC. 89. Section 8484.75 of the Education Code is amended to read:

8484.75. The requirements of the After School Education and Safety Program described in Article 22.5 (commencing with Section 8482)~~,~~ apply to the program established by this article, with the following exceptions as applicable:

(a) Sections 8482.5, 8482.55, 8483.5, 8483.55, 8483.6, 8483.7, 8483.75, and 8484.5~~,~~ do not apply to this article.

(b) Any provision of Article 22.5 (commencing with Section 8482) that is in conflict with, or duplicative of, any provision of this article.

(c) Any provision that is in conflict with applicable federal law or regulations.

SEC. 90. Section 8498 of the Education Code is amended to read:

8498. (a) The State Allocation Board may use up to 5 percent of any appropriation for the purposes of this article to provide loans to private nonsectarian child care and development programs not under contract with the ~~State Department of Education~~ *department* for renovation and repair of existing program facilities, in accordance with this section.

(b) The ~~Superintendant of Public Instruction~~ *Superintendent* shall establish qualifications to determine the eligibility of child care agencies for loans pursuant to this section.

(c) The board, with any necessary assistance from the Superintendent ~~of Public Instruction~~, may do any of the following:

(1) Establish procedures and policies in connection with the administration of this section it deems necessary.

(2) Adopt rules and regulations for the administration of this section requiring procedure, forms, and information it deems necessary.

(d) A recipient of a loan pursuant to this section shall do all of the following:

(1) Document that the renovated facility shall comply with all laws and regulations applicable to child care facilities provided for pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

(2) Demonstrate to the satisfaction of the board that it will have sufficient revenues to pay the principal and interest on the loan and to maintain the operation of the child care facility.

(e) A recipient of a loan pursuant to this section shall assure the board that the renovated facility shall be used for purposes of the child care and development program for the following periods:

(1) For loans equal to or less than thirty thousand dollars ($30,000), not less than three years from the beginning of the loan period.

(2) For loans exceeding thirty thousand dollars ($30,000), the fixed period of time shall increase one year for each additional ten thousand dollars ($10,000) or part thereof, to a maximum of fifty thousand dollars ($50,000).

(f) The board shall set the period of the loan for each recipient, up to a maximum of 10 years, based upon the amount of the loan, the recipient's ability to repay the loan, and the length of time the recipient has committed to use the renovated facility for purposes of the child care and development program.

(g) Interest on the loan principal shall be charged at a rate equal to the average of the interest rate applied to the last three bond sales pursuant to Chapter 21.6 (commencing with Section 17695) of Part 10.

(h) In the event that a recipient ceases to use the renovated facility for purposes of the child care and development program prior to the expiration of the period specified pursuant to subdivision (e), the board shall collect the entire outstanding balance of the loan, plus interest, notwithstanding the loan period originally set pursuant to subdivision (f).

SEC. 91. Section 8669 of the Education Code, as amended by Section 1 of Chapter 676 of the Statutes of 2005, is amended to read:

8669. (a) It is the intent of the Legislature that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for Mathematics and Science for each fiscal year would be financed by state funds beginning in the 1999–2000 fiscal year. The balance of the operating costs would be financed with fees and private support.

(b) Except as provided in subdivision (c), the Regents of the University of California shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding two thousand two hundred dollars ($2,200) per session in the year 2006, and may increase this fee by an amount up to 5 percent each year thereafter. It is the intent of the Legislature that the University of California award full or partial scholarships on the basis of need and that pupils who are unable to pay all or part of the fee may petition the University of California for a fee

reduction or waiver to ensure that a qualified applicant is not denied admission solely because of ~~an ability~~ *his or her inability* to pay part or all of the fee. Any public announcement regarding the summer school program should include notification that need-based scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) For pupils who are not California residents, it is the intent of the Legislature that the Regents of the University of California set a tuition fee that is not less than the total actual costs to the summer school of services per pupil.

(d) The foundation authorized to be established pursuant to subdivision (f) of Section 8664 may raise funds from the private sector that may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not necessarily be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 92. Section 8669 of the Education Code, as added by Section 2 of Chapter 676 of the Statutes of 2005, is amended to read:

8669. (a) It is the intent of the Legislature that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for Mathematics and Science for each fiscal year would be financed by state funds beginning in the 1999–2000 fiscal year. The balance of the operating costs would be financed with fees and private support.

(b) Except as provided in subdivision (c), the Regents of the University of California shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding one thousand dollars ($1,000) per session in the year 2000, and may increase this fee by an amount up to 5 percent each year thereafter. It is the intent of the Legislature that the University of California award full or partial scholarships on the basis of need and that pupils who are unable to pay all or part of the fee may

petition the University of California for a fee reduction or waiver to ensure that a qualified applicant is not denied admission solely because of ~~an ability~~ *his or her inability* to pay part or all of the fee. Any public announcement regarding the summer school program should include notification that need-based scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) For pupils who are not California residents, it is the intent of the Legislature that the Regents of the University of California set a tuition fee that is not less than the total actual costs to the summer school of services per pupil.

(d) The foundation authorized to be established pursuant to subdivision (f) of Section 8664 may raise funds from the private sector that may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not necessarily be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

(e) This section shall become operative on January 1, 2008.

SEC. 93. Section 8825 of the Education Code is amended to read:

8825. An eligible applicant may submit a project proposal that addresses one or more of the following areas:

(a) Arts education programs that are aligned to the state adopted visual and performing arts content standards and framework.

(b) Pupil assessment in the arts.

(c) Participation in local and state networks to create comprehensive standards based arts education programs.

(d) Expanding the capacity to assist pupils in achieving the state adopted visual and performing arts content standards.

(e) Developing an online statewide digital visual and performing arts resource center.

(f) Expanding arts education programs developed through participation in the Local Arts Education Partnership Program as set forth in Chapter 5 (commencing with Section 8810) ~~of Part 6~~.

SEC. 94. Section 12117 of the Education Code is amended to read:

12117. *(a)* The State Agency for Donated Food Distribution may, without at the time furnishing vouchers or itemized statements, draw from the Donated Food Revolving Fund for use as a departmental revolving fund *either of the following*:

~~(a)~~

(1) A sum ~~of~~ not to exceed thirty thousand dollars ($30,000)~~,~~ ~~or~~.

~~(b)~~

(2) With the approval of the Department of Finance, a sum in excess of thirty thousand dollars ($30,000).

(b) Any moneys ~~so~~ withdrawn *pursuant to subdivision (a)* may only be used, in accordance with law and the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* rules, for payment of compensation earned, traveling expense, traveling expense advances, or where immediate payment is otherwise necessary. All disbursements from the revolving fund ~~must~~ *shall* be substantiated by vouchers filed with and audited by the Controller. From time to time, disbursements, supported by vouchers, may be reported to the Controller in connection with claims for reimbursement of the departmental revolving fund. At any time upon the demand of the Department of Finance or the Controller, ~~such~~ *the* revolving fund ~~must~~ *shall* be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

SEC. 95. Section 17625 of the Education Code is amended to read:

17625. *(a)* Notwithstanding any other law, any fee, charge, dedication, or other form of requirement levied by the governing board of a school district under Section 17620 may apply, as to any manufactured home or mobilehome, only pursuant to compliance with all of the following conditions:

(1) The fee, charge, dedication, or other form of requirement is applied to the initial location, installation, or occupancy of the manufactured home or mobilehome within the school district.

(2) The manufactured home or mobilehome is to be located, installed, or occupied on a space or site on which no other manufactured home or mobilehome was previously located, installed, or occupied.

(3) The manufactured home or mobilehome is to be located, installed, or occupied on a space in a mobilehome park, or on any

site or in any development outside a mobilehome park, on which the construction of the pad or foundation system commenced after September 1, 1986.

(b) Compliance on the part of any manufactured home or mobilehome with any fee, charge, dedication, or other form of requirement, as described in subdivision (a), or certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow, ~~where~~ *if* the manufactured home or mobilehome is to be located, installed, or occupied on a mobilehome park space, or on any site or in any development outside a mobilehome park, as described in subdivision (a), and the sale or transfer of the manufactured home or mobilehome is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobilehome for occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code, in the event that paragraph (1) does not apply.

(c) ~~No~~ *A* fee or other requirement levied under Section 17620 shall *not* be applied to any of the following:

(1) Any manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park on or before September 1, 1986, or on any date thereafter, if construction on that space, pursuant to a building permit, commenced on or before September 1, 1986.

(2) Any manufactured home or mobilehome located, installed, or occupied on any site outside of a mobilehome park on or before September 1, 1986, or on any date thereafter if construction on that site pursuant to a building permit commenced on or before September 1, 1986.

(3) The replacement of, or addition to, a manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park, subsequent to the original location, installation, or occupancy of any manufactured home or mobilehome on that space.

(4) The replacement of a manufactured home or mobilehome that was destroyed or damaged by fire or any form of natural disaster.

(5) A manufactured home or mobilehome accessory structure, as defined in Section 18008.5 or 18213 of the Health and Safety Code.

(6) The conversion of a rental mobilehome park to a subdivision, cooperative, or condominium for mobilehomes, or its conversion to any other form of resident ownership of the park, as described in Section 50561 of the Health and Safety Code.

(d) ~~Where~~ *If* any fee or other requirement levied under Section 17620 is required as to any manufactured home or mobilehome that is subsequently replaced by a permanent residential structure constructed on the same lot, the amount of that fee or other requirement shall apply toward the payment of any fee or other requirement under Section 17620 applied to that permanent residential structure.

(e) Notwithstanding any other provision of law, any school district that, on or after January 1, 1987, collected any fee, charge, dedication, or other form of requirement from any manufactured home, mobilehome, mobilehome park, or other development, shall immediately repay the fee, charge, dedication, or other form of requirement to the person or persons who made the payment to the extent the fee, charge, dedication, or other form of requirement collected would not have been authorized under subdivision (a). This subdivision shall not apply, however, to the extent that, pursuant to Section 16 of Article I of the California Constitution, it would impair the obligation of any contract entered into by any school district, on or before ~~the effective date of this section~~ *January 1, 1997*.

(f) For purposes of this section, "manufactured home," "mobilehome," and "mobilehome park" have the meanings set forth in Sections 18007, 18008, and 18214, respectively, of the Health and Safety Code.

(g) (1) Whenever a manufactured home or a mobilehome owned by a person 55 years of age or older who is also a member of a lower income household as defined by Section 50079.5 of the Health and Safety Code, and which has been moved from a mobilehome park space located in one school district, where the mobilehome owner has resided, to a space or lot located in a mobilehome park or a subdivision, cooperative, or condominium for mobilehomes or manufactured homes located in another

school district, is subject to any fee or other requirement under Section 17620, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, the district in which the manufactured home or mobilehome has been newly located may waive the fee or other requirement under Section 53080, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, or otherwise shall be required to grant the homeowner the necessary approval for occupancy of the home, and permission to pay the amount of the fee or other requirement thereafter, in installments, over a period totaling no less than 36 months. A school district may require that the installments be paid monthly, quarterly, or every six months during the 36-month period, and that the fee be secured as a lien perfected against the mobilehome or manufactured home pursuant to Section 18080.7 of the Health and Safety Code.

(2) Costs of filing the lien and reasonable late charges or interest may be added to the amount of the lien. This subdivision does not apply ~~where~~ *if* a school facilities fee, charge, or other requirement is imposed pursuant to Section 65995.2 of the Government Code.

SEC. 96. Section 19980 of the Education Code is amended to read:

19980. The Legislature hereby finds and declares that, inasmuch as the ~~procee ds~~ *proceeds* from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 97. Section 22121 of the Education Code is amended to read:

22121. (a) "Credited service" means service for which the required contributions have been paid.

(b) "Credited service" for the limited purpose of determining ~~eligibilty~~ *eligibility* for benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also includes up to two-tenths of one year of service granted pursuant to Section 22717.

SEC. 98. Section 24618 of the Education Code is amended to read:

24618. Losses or gains resulting from overpayment or underpayment of contributions or other amounts under this part within the limits set by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoffs by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, shall be debited or credited, as the case may be, to the appropriate reserve in the retirement fund.

SEC. 99. Section 32255 of the Education Code is amended to read:

32255. As ~~use~~ *used* in this chapter:

(a) "Animal" means any living organism of the kingdom animalia, beings ~~which~~ *that* typically differ from plants in capacity for spontaneous movement and rapid motor response to stimulation~~,~~ by a usually greater mobility with some degree of voluntary locomotor ability~~,~~ *and* by greater irritability commonly mediated through a more or less centralized nervous system, beings ~~which~~ *that* are characterized by a requirement for complex organic nutrients including proteins or their constituents ~~which~~ *that* are usually digested in an internal cavity before assimilation into the body proper, ~~which~~ *and beings that* are distinguished from typical plants by lack of chlorophyll, by an inability to perform photosynthesis, by cells that lack cellulose walls, and by the frequent presence of discrete complex sense organs.

(b) "Alternative education project" includes, but is not limited to, the use of video tapes, models, films, books, and computers, which would provide an alternate avenue for obtaining the knowledge, information, or experience required by the course of study in question. "Alternative education project" also includes "alternative test."

(c) "Pupil" means a person under 18 years of age who is matriculated in a course of instruction in an educational institution within the scope of Section 32255.5. For the purpose of asserting the pupil's rights and receiving any notice or response pursuant to this chapter, "pupil" also includes the parents of the matriculated minor.

SEC. 100. Section 32255.1 of the Education Code is amended to read:

32255.1. (a) Except as otherwise provided in Section 32255.6, any pupil with a moral objection to dissecting or otherwise harming or destroying animals, or any parts thereof, shall notify his or her teacher regarding this objection, upon notification by the school of his or her rights pursuant to Section 32255.4.

(b) If the pupil chooses to refrain from participation in an education project involving the harmful or destructive use of animals, and if the teacher believes that an adequate alternative education project is possible, ~~then~~ the teacher may work with the pupil to develop and agree upon an alternate education project for the purpose of providing the pupil an alternate avenue for obtaining the knowledge, information, or experience required by the course of study in question.

(c) The alternative education project shall require a comparable time and effort investment by the pupil. It shall not, as a means of penalizing the pupil, be more arduous than the original education project.

(d) The pupil shall not be discriminated against based upon his or her decision to exercise his or her rights pursuant to this chapter.

(e) Pupils choosing an alternative educational project shall pass all examinations of the respective course of study in order to receive credit for that course of study. However, if tests require the harmful or destructive use of animals, a pupil may, ~~similarily~~ *similarly*, seek alternative tests pursuant to this chapter.

(f) A pupil's objection to participating in an educational project pursuant to this section shall be substantiated by a note from his or her parent or guardian.

SEC. 101. Section 33551 of the Education Code is amended to read:

33551. The Members of the Legislature appointed to the commission pursuant to Section ~~33551~~ *33550* shall have the powers and duties of a joint legislative committee on the subject of educational management and evaluation and shall meet with, and participate in, the work of the commission to the extent that ~~such~~ *this* participation is not incompatible with their positions as Members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

SEC. 102. Section 35105 of the Education Code is amended to read:

35105. Subject to the procedures prescribed by ~~Sections 5010 and 5007~~ *Section 1302.2 of the Elections Code* with respect to newly formed unified school districts, the majority of members of the first elected board of any newly formed school district, the members of which majority received the highest number of votes, shall serve until the first Friday in December of the second succeeding odd-numbered year. The other members' terms shall expire on the first Friday in December of the first succeeding odd-numbered year. All of these members shall continue in office until their successors are elected and qualified.

SEC. 103. Section 41500 of the Education Code is amended to read:

41500. (a) Notwithstanding any other provision of law, a school district and county office of education may expend in a fiscal year up to 15 percent of the amount apportioned for the block grants set forth in Article 3 (commencing with Section 41510), Article 5 (commencing with Section 41530), Article 6 (commencing with Section 41540), or Article 7 (commencing with Section 41570) for any other programs for which the school district or county office is eligible for funding, including ~~programs whose~~ *any program the* funding *of which* is not included in any of the block grants established pursuant to this chapter. The total amount of funding a school district or county office of education may expend for a program to which funds are transferred pursuant to this section may not exceed 120 percent of the amount of state funding allocated to the school district or county office for purposes of that program in a fiscal year. For purposes of this subdivision, "total amount" means the amount of state funding allocated to a school district or county office for purposes of a particular program in a fiscal year plus the amount transferred in that fiscal year to that program pursuant to this section.

(b) A school district and county office of education shall not, pursuant to this section, transfer funds from Article 2 (commencing with Section 41505) and Article 4 ~~(commending~~ *(commencing* with Section 41520).

(c) Before a school district or county office of education may expend funds pursuant to this section, the governing board of the

school district or the county board of education, as applicable, shall discuss the matter at a noticed public meeting.

(d) A school district shall track transfers made pursuant to this section.

SEC. 104. Section 42238.4 of the Education Code is amended to read:

42238.4. (a) For the 1995–96 fiscal year, the county superintendent of schools shall compute an equalization adjustment for each school district in the county, so that no district's base revenue limit per unit of average daily attendance is less than the prior fiscal year statewide average base revenue limit for the appropriate size and type of district listed in subdivision (b) plus the inflation adjustment specified in Section 42238.1 for the current fiscal year for the appropriate type of district.

For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(b) Subdivision (a) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent ~~of Public Instruction~~ shall compute a revenue limit equalization adjustment for each school district's base revenue limit per unit of average daily attendance as follows:

(1) Add the products of the amount computed for each school district by the county superintendent pursuant to subdivision (a) and the average daily attendance used to calculate the district's revenue limit for the current fiscal year as adjusted for the deficit factor in Section 42238.145.

(2) Divide the amount appropriated for purposes of this section for the current fiscal year by the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to subdivision (a) by the amount computed pursuant to paragraph (2).

(d) For the purposes of this section, the 1994–95 statewide average base revenue limits determined for the purposes of subdivision (a) and the fraction computed pursuant to paragraph (2) of subdivision (c) by the Superintendent ~~of Public Instruction~~ for the 1995–96 second principal apportionment shall be final, and shall not be calculated as subsequent apportionments. In no event shall the fraction computed pursuant to paragraph (2) of subdivision (c) exceed 1.00. For the purposes of determining the size of a district used in subdivision (b), the Superintendent ~~of Public Instruction~~ shall use a school district's revenue limit average daily attendance for the 1994–95 fiscal year determined pursuant ~~the~~ *to* Section 42238.5 and Article 4 (commencing with Section 42280).

(e) This section shall only be operative if the Director of Finance certifies that a settlement agreement in California Teachers Association v. Gould~~,~~ (Sacramento County Superior Court Case CV 373415) is effective. No funds shall be disbursed under this section for this purpose before August 1, 1996, and any apportionment or allocation of funds appropriated for purposes of this section shall be accounted for in the 1995–96 fiscal year.

(f) Appropriations for the 1995–96 fiscal year as a result of the implementation of this section shall be deemed "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 1995–96 fiscal year and "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year, for purposes of Section 8 of Article XVI of the California Constitution.

SEC. 105. Section 44210 of the Education Code is amended to read:

44210. *(a)* There is hereby established in the state government the Commission on Teacher Credentialing, to consist

of 15 voting members, 14 of whom shall be appointed by the Governor with the advice and consent of the Senate, as specified in ~~subdivisions (b) to (g)~~ *paragraphs (2) to (7),* inclusive. The commission shall consist of the following members:

~~(a)~~

(1) The Superintendent ~~of Public Instruction~~ or his or her designee.

~~(b)~~

(2) Six practicing teachers from public elementary and secondary schools in California.

~~(c)~~

(3) One person who is employed on the basis of a services credential other than an administrative services credential.

~~(d)~~

(4) One member of a school district governing board.

~~(e)~~

(5) Four representatives of the public. None of these persons shall have been employed by an elementary or secondary school district in a position requiring certification, or shall have served as a school district governing board member in the five-year period immediately prior to his or her appointment to the commission.

~~(f)~~

(6) One school administrator in a public elementary or secondary school in California.

~~(g)~~

(7) One faculty member from a college or university that grants baccalaureate degrees.

(b) With the exception of the four representatives of the public and the Superintendent ~~of Public Instruction~~, the appointment of a member shall terminate if he or she is no longer a practicing teacher in a public elementary or secondary school, ~~or~~ a person who is employed on the basis of a valid services credential, ~~or~~ a school administrator, ~~or~~ a faculty member of a college or university that grants baccalaureate degrees, or a school district governing board member, as may be the case, in California.

(c) Not more than one member of the commission is to be appointed from the same school district or college or university campus.

(d) The term of each member appointed to the commission on or prior to June 30, 1989, shall expire on July 1, 1989. It is the intent of the Legislature that as of July 1, 1989, the Governor first appoint to the commission, as feasible, members of the Commission on Teacher Credentialing whose terms, notwithstanding this section, would not have expired, to facilitate the transition to a commission with a reduced membership. Commencing July 1, 1989, four members shall be appointed to the commission for terms of two years, five members for terms of three years, and five members ~~of~~ *for* terms of four years.

~~(h)~~

(e) Each appointment pursuant to this section shall expire on November 20 of the year of expiration of the applicable term. All appointments made pursuant to this section ~~shall be~~ *are* subject to Section 44213.

SEC. 106. Section 44929.23 of the Education Code is amended to read:

44929.23. (a) The governing board of a school district of any type or class having an average daily attendance of less than 250 pupils may classify as a permanent employee of the district any employee~~,~~ who, after having been employed by the school district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications. If that classification is not made, the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made.

(b) Notwithstanding subdivision (a), Section 44929.21 shall apply to certificated employees employed by a school district, if the governing board *of the school district* elects to dismiss probationary employees pursuant to Section 44948.2. If that election is made ~~by~~, the governing board ~~of the school district~~ thereafter shall classify as a permanent employee of the district any probationary employee~~,~~ who, after being employed for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications as required by Section 44929.21. Any probationary employee who has been employed by the district for two or more

consecutive years on the date of that election in a position or positions requiring certification qualifications shall be classified as a permanent employee of the district.

(c) If the classification is not made pursuant to subdivision (a) or (b), the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

SEC. 107. Section 44944 of the Education Code is amended to read:

44944. (a) *(1)* In a dismissal or suspension proceeding initiated pursuant to Section 44934, if a hearing is requested by the employee, the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all *of* the power granted to an agency in that chapter, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. Notwithstanding any provision to the contrary, and except for the taking of oral depositions, no discovery shall occur later than 30 calendar days after the employee is served with a copy of the accusation pursuant to Section 11505 of the Government Code. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to the continuance. However, the extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

(2) If the right of discovery granted under ~~the preceding~~ paragraph *(1)* is denied by either the employee or the governing

board, all *of* the remedies in Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his or her motion, shall be the superior court of the county in which the hearing will be held.

(3) The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

(4) The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

(5) No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters ~~which~~ *that* occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) *(1)* The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be an administrative law judge of the Office of Administrative Hearings who shall be chairperson and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, the failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. ~~When~~ *If* the county board of education is also the governing board of the

school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent ~~of Public Instruction~~, who shall be reimbursed by the school district for all costs incident to the selection.

(2) The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal or suspension and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) *(1)* The decision of the Commission on Professional Competence shall be made by a majority vote, and the commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition ~~which~~ *that* shall be, solely, *one of the following*:

~~(1)~~

(A) That the employee should be dismissed.

~~(2)~~

(B) That the employee should be suspended for a specific period of time without pay.

~~(3)~~

(C) That the employee should not be dismissed or suspended.

(2) The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the school district or governing board unless the errors are prejudicial errors.

(3) The commission shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to ~~paragraph (2)~~ *subparagraph (B) of paragraph (1)* shall be available only in a suspension proceeding authorized pursuant to subdivision (b) of Section 44932 or Section 44933.

(4) The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

(5) The board may adopt from time to time rules and procedures not inconsistent with ~~provisions of~~ this section as may be necessary to effectuate this section.

(6) The governing board and the employee shall have the right to be represented by counsel.

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district in this state, the member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district, whichever amount is greater.

(e) *(1)* If the Commission on Professional Competence determines that the employee should be dismissed or suspended, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the administrative law judge. The state shall pay any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board and the member selected by the employee, including, but not limited to, payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee. The Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of the claims. The employee and the governing board shall pay their own ~~attorney~~ *attorney's* fees.

(2) If the Commission on Professional Competence determines that the employee should not be dismissed or suspended, the governing board shall pay the expenses of the hearing, including the cost of the administrative law judge, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board and the member selected by the employee, including, but not limited to, payments or obligations incurred for travel, meals, and lodging, the cost of the substitute

or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable ~~attorney~~ *attorney's* fees incurred by the employee.

(3) As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (d).

(4) If either the governing board or the employee petitions a court of competent jurisdiction for review of the decision of the commission, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

(5) (A) If the decision of the commission is finally reversed or vacated by a court of competent jurisdiction, ~~then~~ either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board for those expenses, or the governing board, having paid the expenses, shall be entitled to reimbursement from the state.

(B) Additionally, either the employee, having paid a portion of the expenses of the hearing, including the cost of the administrative law judge, shall be entitled to reimbursement from the governing board for the expenses, or the governing board, having paid its portion and the employee's portion of the expenses of the hearing, including the cost of the administrative law judge, shall be entitled to reimbursement from the employee for that portion of the expenses.

(f) The hearing provided for in this section shall be conducted in a place selected by agreement among the members of the commission. In the absence of agreement, the place shall be selected by the administrative law judge.

SEC. 108. Section 45127 of the Education Code is amended to read:

45127. *(a)* The workweek of a classified employee, as defined in Section 45103 or ~~Section~~ 45256, shall be 40 hours. The workday shall be eight hours. These provisions do not restrict the extension of a regular workday or workweek on an overtime basis ~~when such~~ *if it* is necessary to carry on the business of the district. ~~Nothing in this~~ *This* section ~~shall be deemed to~~ *does not* bar the district from establishing a workday of less than eight hours or a workweek of less than 40 hours for all or any of its classified positions.

(b) Notwithstanding ~~the provisions of~~ this section and Section 45128, a governing board may, with the approval of the

personnel commission, where applicable, exempt specific classes of positions from compensation for overtime in excess of eight hours in one day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. ~~Such~~ *This* exemption ~~shall be applied~~ *applies* only to those classes ~~which~~ *that* the governing board and personnel commission, where applicable, specifically find to be ~~a~~ subject to fluctuations in daily working hours not susceptible to administrative control, such as security patrol and recreation classes, but shall not include food service and transportation classes.

(c) This section ~~shall apply~~ *applies* to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) ~~of this chapter~~.

SEC. 109. Section 45168.5 of the Education Code is amended to read:

45168.5. (a) (1) Notwithstanding any other law, the governing board of a school district that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization shall transmit the money to the employee organization within 15 days of issuing the paycheck containing the deduction to the employee.

(2) Notwithstanding paragraph (1), if the governing board of a school district with a pupil population exceeding 400,000, collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization, the governing board shall transmit the money to the employee organization within 15 working days of issuing the paycheck containing the deduction to the employee.

(b) (1) This section does not limit the right of an employee organization or affected employee to sue for a failure of the employer to transmit dues or fees pursuant to this section.

(2) In an action brought for a violation of subdivision (a), the court may award reasonable ~~attorney~~ *attorney's* fees and costs to the prevailing party if any party to the action requests ~~attorney~~ *attorney's* fees and costs.

(c) This section applies to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240).

(d) A school district or county office of education may not request, and the ~~State Board of Education~~ *state board* may not grant, a waiver of compliance with this section~~,~~.

SEC. 110. Section 47610 of the Education Code is amended to read:

47610. A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

(a) As specified in Section 47611.

(b) As specified in Section 41365.

(c) All laws establishing minimum age for public school attendance.

(d) The California Building *Standards* Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located.

(e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

SEC. 111. Section 47610.5 of the Education Code is amended to read:

47610.5. A charter school facility is exempt from the requirements of subdivision (d) of Section 47610 if either of the following conditions apply:

(a) The charter school facility complies with Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5.

(b) The charter school facility is exclusively owned or controlled by an entity that is not subject to the California Building *Standards* Code, including, but not limited to, the federal government.

SEC. 112. Section 47660 of the Education Code is amended to read:

47660. (a) For purposes of computing eligibility for, and entitlements to, general purpose funding and operational funding for categorical programs, the enrollment and average daily

attendance reported by a sponsoring local educational agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b) (1) Notwithstanding subdivision (a), and commencing with the 2005–06 fiscal year, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the school district, if the school district was a basic aid school district in the prior fiscal year, or if the pupils reside in the unified school district and attended a charter school of a school district that converted to charter status on or after to July 1, 2005. Only the attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

(2) Notwithstanding subdivision (a), for the 2005–06 fiscal year only, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606 and is operating them as charter schools, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the unified school district if the pupils attended a charter school established in the unified school district prior to July 1, 2005. Only the attendance of pupils described by this paragraph shall be included in the calculation made pursuant to Section 42241.3.

(c) Commencing with the 2005–06 fiscal year, for the attendance of pupils specified in subdivision (b), the general-purpose entitlement for a charter school that is established through the conversion of an existing public school within a unified school district on or after July 1, 2005, shall be determined using the following amount of general-purpose funding per unit of average daily attendance, in lieu of the amount calculated pursuant to subdivision (a) of Section 47633:

(1) The amount of the actual unrestricted revenues expended per unit of average daily attendance for that school in the year prior to its conversion to, and operation as, a charter school, adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for unified school districts in the year of conversion to and operation as a charter school.

(2) For a subsequent fiscal year, the general-purpose entitlement shall be determined based on the amount per unit of average daily attendance allocated in the prior fiscal year adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for unified school districts in that fiscal year.

(d) Commencing with the 2005–06 fiscal year, the general-purpose funding per unit of average daily attendance specified for a unified school district for purposes of paragraph (7) of subdivision (h) of Section 42238 shall be deemed to be the amount computed pursuant to subdivision (c).

(e) A unified school district that is the chartering authority of a charter school that is subject to ~~the provisions of~~ subdivision (c) shall certify to the Superintendent the amount specified in paragraph (1) of subdivision (c) prior to the approval of the charter petition by the governing board of the school district. This amount may be based on estimates of the unrestricted revenues expended in the fiscal year prior to the school's conversion to charter status and the school's operation as a charter school, provided that the amount is recertified when the actual data becomes available.

(f) For the purposes of this section, "basic aid school district" means a school district that does not receive from the state an apportionment of state funds pursuant to subdivision (h) of Section 42238.

(g) A school district may use the existing Standardized Account Code Structure and cost allocation methods, if appropriate, for an accounting of the actual unrestricted revenues expended in support of a school pursuant to subdivision (c).

SEC. 113. Section 49030 of the Education Code is amended to read:

49030. (a) Sixty days after the posting of the United States *Anti-Doping Agency* Guide to Prohibited Substances and Prohibited Methods of Doping on the *Internet* Web site of the department pursuant to subdivision (b), dietary supplements, as defined by subsection (ff) of Section 321 of Title 21 of the United States Code, that include any of the following substances, are prohibited from being used by a pupil participating in interscholastic high school sports:

(1) Synephrine.

(2) A prohibited substance enumerated by the United States Anti-Doping Agency Guide to Prohibited Substances and Prohibited Methods of Doping.

(b) The State Department of Health Services shall provide the State Department of Education with the United States Anti-Doping Agency Guide to Prohibited Substances and Prohibited Methods of Doping, on or before March 30, 2006. Upon receipt of the guide, the State Department of Education shall notify each school district that serves pupils in grades 9 to 12, inclusive, that the guide has been completed and shall post the guide on its *Internet* Web site. The State Department of Health Services shall annually notify the State Department of Education of any amendments to the guide for the following school year. For an amendment to be applicable for the ensuing school year, the State Department of Health Services shall notify the State Department of Education as to that amendment no later than the March 30 immediately preceding the school year to which the amendment is to be applicable. Upon receipt of this notice, the State Department of Education shall notify each school district that serves pupils in grades 9 to 12, inclusive, that the guide has been amended and shall post the amended guide on its *Internet* Web site. ~~An~~ *The* amendment ~~become~~ *becomes* effective ~~until~~ 60 days after the department posts the amended guide on its *Internet* Web site.

SEC. 114. Section 49434 of the Education Code is amended to read:

49434. (a) The Superintendent may monitor school districts ~~of the statefor~~ *for* compliance with this article as set forth in subdivision (b).

(b) Each school district monitored pursuant to subdivision (a) shall report to the Superintendent in the coordinated review effort regarding the extent to which it has complied with this article.

(c) A school district that the Superintendent ~~findsto~~ *finds to* be noncompliant with the mandatory provisions of this article shall adopt, and provide to the ~~Superintendent of ,~~ *Superintendent,* a corrective action plan that sets forth the actions to be taken by the school district to ensure that the school district will be in full compliance, within a time agreed upon between the Superintendent and the school district that does not exceed one year. ~~Text — Page 5.~~

SEC. 115. Section 49561 of the Education Code is amended to read:

49561. (a) The department shall create a computerized data-matching system using existing databases from the department and the State Department of Health Services to directly certify recipients of the Food Stamp Program, the California Work Opportunity and Responsibility to Kids ~~Act~~ program (the CalWORKs ~~program) (Ch. 2 (commencing with Sec. 11200), Pt. 3, Div. 9, W.& I.C.)~~ *program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code)),* and other programs authorized for direct certification under federal law, for enrollment in the National School Lunch and School Breakfast Programs. This subdivision does not include Medi-Cal benefits within the criteria for direct certification specified in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265).

(b) The department shall design a process using an existing agency database that will conform with data from the State Department of Health Services to meet the direct certification requirements of the National School Lunch Act, as amended, pursuant to Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code, and the Child Nutrition Act of 1966, as amended, pursuant to Chapter 13A (commencing with Section 1771) of Title 42 of the United States Code.

(c) The department shall design a process using computerized data pursuant to subdivision (a) that will maximize enrollment in school meal programs and improve program integrity while ensuring that pupil privacy safeguards remain in place.

(d) Each state agency identified in subdivision (a) is responsible for the maintenance and protection of data received by their respective agency. The state agency that possesses the data shall follow privacy and confidentiality procedures consistent with all applicable state and federal law.

(e) The department shall determine the availability of and request or apply for, as appropriate, federal funds to assist the state in implementing new direct certification requirements mandated by federal law.

(f) This section shall become operative upon receipt of federal funds to assist the state in implementing new direct certification requirements mandated by federal law.

SEC. 116. Section 49565.2 of the Education Code is amended to read:

49565.2. ~~(a)~~ The funds described in subdivision (a) of Section 49565.1 may be combined with other funding sources to ensure that at least one serving per day of nutritious fruits or vegetables, or both, is provided pursuant to the pilot program.

SEC. 117. Section 49565.4 of the Education Code is amended to read:

49565.4. ~~(a)~~ School districts and charter schools that do not operate school breakfast programs are encouraged to apply for funding to establish breakfast programs using funds appropriated for this purpose in the annual Budget Act.

SEC. 118. Section 52052 of the Education Code is amended to read:

52052. (a) (1) The Superintendent, with approval of the ~~State Board of Education~~ *state board*, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils.

(2) A school shall demonstrate comparable improvement in academic achievement as measured by the API by all numerically significant pupil subgroups at the school, including:

(A) Ethnic subgroups.

(B) Socioeconomically disadvantaged pupils.

(C) English language learners.

(D) Pupils with disabilities.

(3) (A) For purposes of this section, a numerically significant pupil subgroup is one that meets both of the following criteria:

(i) The subgroup consists of at least 50 pupils each of whom has a valid test score.

(ii) The subgroup constitutes at least 15 percent of a school's total population of pupils who have valid test scores.

(B) If a subgroup does not constitute 15 percent of the school's total population of pupils with valid test scores, the subgroup may constitute a numerically significant pupil subgroup if it has at least 100 valid test scores.

(C) For a school with an API score that is based on no fewer than 11 and no more than 99 pupils with valid test scores, numerically significant subgroups shall be defined by the Superintendent, with approval by the ~~State Board of Education~~ *state board*.

(4) The API shall consist of a variety of indicators currently reported to the department, including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils in elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group. Only the test scores of pupils who were counted as part of the enrollment in the annual California Basic Education Data System's data collection for the current fiscal year and who were continuously enrolled during that year may be included in the test result reports in the school's API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent shall determine the extent to which the data are currently reported to the state and the accuracy of the data.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test designated pursuant to Section 60642.

(3) The standards-based achievement tests provided for in Section 60642.5.

(4) The high school exit examination.

(c) Based on the API, the Superintendent shall develop, and the ~~State Board of Education~~ *state board* shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the ~~State Board of Education~~ *state board* pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the ~~State Board of Education~~ *state board* may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant pupil subgroups, as defined in subdivision (a), are making comparable improvement.

(d) Upon adoption of state performance standards by the ~~State Board of Education~~ *state board*, the Superintendent shall recommend, and the ~~State Board of Education~~ *state board* shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools must, at a minimum, meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The ~~State Board of Education~~ *state board* may establish

additional criteria that schools must meet to be eligible for the Governor's Performance Award Program.

(e) The API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) (1) A school with 11 to 99 pupils with valid test scores shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school shall annually receive an API score, unless the Superintendent determines that an API score would be an invalid measure of the school's performance for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the school's API score are not representative of the pupil population at the school.

(C) Significant demographic changes in the pupil population render year-to-year comparisons of pupil performance invalid.

(D) The department discovers or receives information indicating that the integrity of the API score has been compromised.

(E) Insufficient pupil participation in the assessments included in the API.

(3) If a school has less than 100 pupils with valid test scores, the calculation of the API or adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be calculated over more than one annual administration of the tests administered pursuant to Sections 60640 and 60644 and the high school exit ~~exam~~ *examination* administered pursuant to Section 60851, consistent with regulations adopted by the ~~State Board of Education~~ *state board*.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(h) The Superintendent, with the approval of the ~~State Board of Education~~ *state board*, shall develop an alternative

accountability system for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools pursuant to Section 56366, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools. Schools in the alternative accountability system may receive an API score, but shall not be included in the API rankings.

SEC. 119. Section 52055.57 of the Education Code is amended to read:

52055.57. (a) (1) Any provisions that are applicable to local educational agencies under this section are for the purpose of implementing federal requirements under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.). The satisfaction of these criteria by local educational agencies that choose to participate under this article shall be a condition of receiving funds pursuant to this section.

(2) The department shall identify local educational agencies that are in danger of being identified within two years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and shall notify those local educational agencies, in writing, of this status and provide those local educational agencies with research-based criteria to conduct a voluntary self-assessment.

(3) The self-assessment shall identify deficiencies within the operations of the local educational agency, and the programs and services of the local educational agency.

(4) A local educational agency identified pursuant to paragraph (2) is encouraged to revise its local educational agency plan based on the results of the self-assessment.

(5) The program described in this subdivision shall be referred to as the "Early Warning Program."

(b) (1) A local educational agency identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) shall do all of the following:

(A) Conduct a self-assessment using materials and criteria based on current research and provided by the department.

(B) No later than 90 days after a local educational agency becomes identified for program improvement, contract with a

county office of education or another external entity after working with the county superintendent of schools, for ~~all~~ *both* of the following purposes:

(i) Verifying the fundamental teaching and learning needs in the schools of that local educational agency as determined by the local educational agency self-analysis, and identifying the specific academic problems of low-achieving pupils, including a determination of why the prior plan of the local educational agency failed to bring about increased pupil academic achievement.

(ii) Ensuring that the local educational agency receives intensive support and expertise to implement local educational agency reform initiatives in the revised local educational agency plan as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(C) Revise and expeditiously implement the local educational agency plan of the local educational agency to reflect the findings of the verified self-assessment.

(D) After working with the county superintendent of schools or an external verifier, contract with an external provider to provide support and implement recommendations to assist the local educational agency in resolving shortcomings identified in the verified self-assessment.

(2) (A) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency described in paragraph (1) may annually receive fifty thousand dollars ($50,000), ~~and~~ *plus* ten thousand dollars ($10,000) for each school that is supported by federal funds pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) within the local educational agency, for the purpose of fulfilling the requirements of this subdivision.

(B) Subject to the availability of funds appropriated in the annual Budget Act for this purpose, a local educational agency identified as a program improvement local educational agency during the 2005–06 fiscal year, shall receive priority for funding based upon the performance of the socioeconomically disadvantaged subgroup of the local educational agency on the Academic Performance Index. Priority for funding shall be provided to the lowest performing local educational agencies that are identified as program improvement local educational

agencies. It is the intent of the Legislature that funds apportioned pursuant to this paragraph be used to support activities identified in paragraph (1).

(C) It is the intent of the Legislature that a local educational agency identified as a program improvement local educational agency receive no more than two years of funding pursuant to this paragraph.

(c) (1) A local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), shall be subject to one or more of the following sanctions as recommended by the Superintendent and approved by the state board:

(A) Replacing local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(B) Removing schools from the jurisdiction of the local educational agency and establishing alternative arrangements for the governance and supervision of those schools.

(C) Appointing, by the state board, a receiver or trustee, to administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

(D) Abolishing or restructuring the local educational agency.

(E) Authorizing pupils to transfer from a school operated by the local educational agency to a higher performing school operated by another local educational agency, and providing those pupils with transportation to those schools, in conjunction with carrying out not less than one additional action described under this paragraph.

(F) Instituting and fully implementing a new curriculum that is based on state academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for high-priority pupils.

(G) Deferring programmatic funds or reducing administrative funds.

(2) In addition to the sanctions prescribed by paragraph (1), the Superintendent may recommend, and the state board may approve, the requirement that a local educational agency contract with a district assistance and intervention team to aid a local educational agency.

(3) Subject to the availability of funds in the annual Budget Act for this purpose, if the ~~State Board of Education~~ *state board* requires a local educational agency to contract with a district assistance and intervention team pursuant to paragraph (2), the local educational agency may annually receive fifty thousand dollars ($50,000), plus ten thousand dollars ($10,000) for each school that is supported by federal funds pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) within the local educational agency, for no more than two years, for the purpose of contracting with and implementing the recommendations of the district assistance and intervention team.

(4) Not later than January 31, 2006, the Superintendent shall develop and the ~~State Board of Education~~ *state board* shall approve, standards and criteria to be applied by a district assistance and intervention team in carrying out their duties. The standards and criteria shall include all of the following areas:

(A) Governance.

(B) Alignment of curriculum, instruction, and assessments to state standards.

(C) Fiscal operations.

(D) Parent and community involvement.

(E) Human resources.

(F) Data systems and achievement monitoring.

(G) Professional development.

(d) A local educational agency that has received a sanction under subdivision (c) and has not exited program improvement under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) shall appear before the state board within three years to review the progress of the local educational agency. Upon hearing testimony and reviewing written data from the local educational agency and the district assistance and intervention team or county superintendent of schools, the Superintendent shall recommend, and the state board may approve, an alternative sanction under subdivision (c), or may take any appropriate action.

(e) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency that is not identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) may annually receive up to fifteen thousand

dollars ($15,000) per school identified as a program improvement school for the purposes of supporting schools identified as program improvement schools in the local educational agency and determining barriers to improved pupil academic achievement. That local educational agency shall receive no less than forty thousand dollars ($40,000) and no more than one million five hundred thousand dollars ($1,500,000) for those purposes. The Superintendent shall compile a list that ranks each local educational agency based on the number of, and percentage of, schools identified as program improvement schools and shall provide this funding to local educational agencies equally from each list until all funds appropriated for this purpose are depleted. These funds shall be provided for no more than three years.

(f) If there are more local educational agencies that qualify to receive funds under subdivisions (b), (c), and (e) than the amount appropriated for these purposes, the Superintendent may redirect funding for the purposes of subdivision (b).

(g) For purposes of this article, "local educational agency" means a school district, county office of education, or charter school that elects to receive its funding directly pursuant to Section 47651, and that provides public educational services to pupils in kindergarten or any of grades 1 to 12, inclusive.

(h) For purposes of this section, a "stakeholder" is, but is not necessarily limited to, any of the following:

(1) A parent of a child attending a school within the jurisdiction of the local educational agency.

(2) A community partner of the local educational agency.

(3) An employee of the local educational agency, as selected by the bargaining unit.

(i) A local educational agency shall not receive funds pursuant to subdivision (b), (c), or (e) if it is initially identified for program improvement or prevention after July 1, 2009.

SEC. 120. Section 52055.605 of the Education Code is amended to read:

52055.605. (a) The Superintendent, with the approval of the ~~State Board of Education~~ *state board*, shall identify schools ranked in deciles 1 to 5, inclusive, on the Academic Performance Index (API).

(b) The Superintendent shall invite schools identified pursuant to subdivision (a) to participate in the High Priority Schools Grant Program. Notwithstanding subdivision (h) of Section 52053, in order to be eligible for funding from the High Priority Schools Grant Program, a school shall also participate in the Immediate Intervention/Underperforming Schools Program. A school participating in both programs may elect to submit only one application and one plan for both programs. A school participating in the Immediate Intervention/Underperforming Schools Program before the date of the enactment of ~~the act adding this section~~ *Chapter 749 of the Statutes of 2001* is also eligible for participation in the High Priority Schools Grant Program.

(c) Notwithstanding any other provision of law, and if funds are available for this purpose, the Superintendent shall invite a second cohort of schools identified pursuant to subdivision (a) to participate in the High Priority Schools Grant Program beginning in the 2005–06 fiscal year. In order to be eligible for funding pursuant to this section, these schools shall not be required to also participate in the Immediate Intervention/Underperforming Schools ~~Grant~~ Program.

(d) First priority for participation in the High Priority Schools Grant Program shall be given to schools ranked on the API in decile 1. Second priority shall be given to schools in decile 2. Third priority shall be given to schools in decile 3. Fourth priority shall be given to schools in decile 4. Fifth priority shall be given to schools in decile 5. Within each decile, priority shall be given to the lowest ranked schools. Schools that are receiving or have received funding pursuant to Section 52053, 52054.5, or 52055.600 are ineligible to participate in a second cohort of schools funded pursuant to subdivision (c).

(e) Notwithstanding any other provision of law, and if funds are available for this purpose, the number of schools within the designated cohorts of the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053 may exceed the maximum numbers specified in that section in order to participate in the program established pursuant to this article.

(f) If a school ranked in decile 1 of the API completes the action plan required as part of the application to participate in the

federal Comprehensive School Reform Demonstration Program (P.L. 105-78), but there are insufficient funds to allow that school to participate in that program, so long as the action plan meets the requirements of subdivisions (d) and (e) of Section 52054, that school shall be automatically approved to the extent funding is available for participation in the Immediate Intervention/Underperforming Schools Program and shall be deemed to have complied with the requirements of Section 52054.

(g) The ~~State Board of Education~~ *state board* may allow continuation high schools to apply for and receive funding pursuant to this article if those continuation high schools report pupil performance that is equivalent to that of high schools ranked in deciles 1 and 2 on the API and the board determines that the state will be able to adequately determine growth in pupil performance in a valid and reliable manner for the purpose of accountability pursuant to this article. The ~~State Board of Education~~ *state board* may establish a limit on the number of continuation high schools that may be funded to reflect their proportion of high-priority pupils in grades 9 to 12, inclusive, and may adopt criteria limiting the eligibility for funding, pursuant to this article, of continuation high schools with a high level of per pupil funding from the continuation high school revenue limit add-on.

SEC. 121. Section 52055.625 of the Education Code is amended to read:

52055.625. (a) It is the intent of the Legislature that the lists contained in paragraph (2) of subdivisions (c), (d), (e), and (f) be considered options that may be considered by a school in the development of its school action plan and that a school not be required to adopt all of the listed options as a condition of funding under the terms of this section. Instead, this listing of options is intended to provide the opportunity for focus and strategic planning as schools plan to address the needs of high-priority pupils.

(b) (1) As a condition of the receipt of funds, a school action plan shall include each of the following essential components:

(A) Pupil literacy and achievement.

(B) Quality of staff.

(C) Parental involvement.

(D) Facilities, curriculum, instructional materials, and support services.

(2) As a condition of the receipt of funds, a school action plan for a school initially applying to participate in the program on or after the 2004–05 fiscal year, shall include each of the following essential components:

(A) Pupil literacy and achievement.

(B) Quality of staff, including highly qualified teachers, as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and appropriately credentialed teachers for English learners.

(C) Parental involvement.

(D) Facilities maintained in good repair as specified in Sections 17014, 17032.5, 17070.75, and 17089, curriculum, instructional materials that are, at a minimum, consistent with the requirements of Section 60119, and support services.

(c) (1) The pupil literacy and achievement component shall contain a strategy to focus on increasing pupil literacy and achievement, with necessary attention to the needs of English language learners. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) Each pupil at the school will be provided appropriate instructional materials aligned with the academic content and performance standards adopted by the ~~State Board of Education~~ *state board* as required by law.

(B) Each significant subgroup at the school will demonstrate increased achievement based on API results by the end of the implementation period.

(C) English language learners at the school will demonstrate increased performance based on the English language development test required by Section 60810 and the achievement tests required pursuant to Section 60640.

(2) To achieve the goals in paragraph (1), a school in its action plan may include, among other things, any of the following options:

(A) Selective class size reduction in key curricular areas provided this does not result in a decrease in the proportion of experienced credentialed teachers at the schoolsite.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) Targeted intensive reading instruction utilizing reading capacity-level materials that may include, but are not limited to, the following strategies:

(i) The development of a reading competency program for pupils in grades 5 to 8, inclusive, whose reading scores are at or below the 40th percentile or in the two lowest performance levels, as adopted by the ~~State Board of Education~~ *state board*, on the reading portion of the achievement test, authorized by Section 60640. This program may include direct instruction in reading at grade level utilizing the English language arts content standards adopted pursuant to Section 60605. Additionally, this program may offer specialized intervention that utilizes state approved instructional materials adopted pursuant to Section 60200. It is the intent of the Legislature, as a recommendation, that this curriculum consist of at least one class period during the regular schoolday taught by a teacher trained in the English language arts standards pursuant to Section 60605. It is also the intent of the Legislature, as a recommendation, that periodic assessments throughout the year be conducted to monitor the progress of the pupils involved.

(ii) The use of a library media teacher to work cooperatively with every teacher and principal at the schoolsite to develop and implement an independent and free reading program, help teachers determine a pupil's reading level, order books that have been determined to meet the needs of pupils, help choose books at pupils' independent reading levels, and assure that pupils read a variety of genres across all academic content areas. For purposes of this article, "library media teacher" means a classroom teacher who possesses or is in the process of obtaining a library media teacher services credential consistent with Section 44868.

(D) Mentoring programs for pupils.

(E) Community, business, or university partnerships with the school.

(d) (1) The quality of staff component shall contain a strategy to attract, retain, and fairly distribute the highest quality staff at the school, including teachers, administrators, and support staff. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) An increase in the number of credentialed teachers working at that schoolsite.

(B) An increase in or targeting of professional development opportunities for teachers related to the goals of the action plan and English language development standards adopted by the ~~State Board of Education~~ *state board* aligned with the academic content and performance standards, including, but not limited to, participation in professional development institutes established pursuant to Article 2 (commencing with Section 92220) of Chapter 5 of Part 65.

(C) By the end of the implementation period, successful completion by the schoolsite administrators of a program designed to maximize leadership skills.

(2) To achieve the goals in paragraph (1) a school may include in its action plan, among others, any of the following options:

(A) Incentives to attract credentialed teachers and quality administrators to the schoolsite, including, but not limited to, additional compensation strategies similar to those authorized pursuant to Section 44735.

(B) A school district preintern or intern program within which eligible emergency permit teachers located at the schoolsite would be required to participate, unless those individuals are already participating in another teacher preparation program that leads to the attainment of a valid California teaching credential.

(C) Common planning time for teachers, administrators, and support staff focused on improving pupil achievement.

(D) Mentoring for site administrators, peer assistance for credentialed teachers, and support services for new teachers, including, but not limited to, the Beginning Teacher Support and Assessment System.

(E) Providing assistance and incentives to teachers for completion of professional certification programs and toward attaining BCLAD or CLAD certification.

(F) Increasing professional development in state academic content and performance standards, including English language development standards.

(e) (1) The parental involvement component shall contain a strategy to change the culture of the school community to recognize parents and guardians as partners in the education of their children and to prepare and educate parents and guardians

in the learning and academic progress of their children. At a minimum, this strategy shall include a commitment to develop a school-parent compact as required by Section 51101 and a plan to achieve the goal of maintaining or increasing the number and frequency of personal parent and guardian contacts each year at the schoolsite and school-home communications designed to promote parent and guardian support for meeting state standards and core curriculum requirements.

(2) To achieve the goals in subdivision (a), a school may in its action plan include, among others, any of the following options:

(A) Parent and guardian homework support classes.

(B) A program of regular home visits.

(C) After school and evening opportunities for parents, guardians, and pupils to learn together.

(D) Training programs to educate parents and guardians about state standards and testing requirements, including the high school exit examination.

(E) Creation, maintenance, and support of parent centers located on schoolsites to educate parents and guardians regarding pupil expectations and provide support to parents and guardians in their efforts to help their children learn.

(F) Programs targeted at parents and guardians of special education pupils.

(G) Efforts to develop a culture at the schoolsite focused on college attendance, including programs to educate parents and guardians regarding college entrance requirements and options.

(H) Providing more bilingual personnel at the schoolsite and at ~~school related~~ *school-related* functions to communicate more effectively with parents and guardians who speak a language other than English.

(I) Providing an opportunity for parents to monitor online, if the technology is available, and in compliance with applicable state and federal privacy laws, the academic progress and attendance of their children.

(f) (1) The facilities, curriculum, instructional materials, and support services component shall contain a strategy to provide an environment that is conducive to teaching and learning and that includes the development of a high-quality curriculum and instruction aligned with the academic content and performance standards adopted pursuant to Section 60605 and the standards

for English language development adopted pursuant to Section 60811 to measure progress made towards achieving English language proficiency. At a minimum, this strategy shall include the goal of providing adequate logistical support, including, but not limited to, curriculum, quality instruction, instructional materials, support services, and supplies for every pupil.

(2) To achieve the goal specified in paragraph (1), a school in its action plan may include, among others, any of the following options:

(A) State and locally developed valid and reliable assessments based on state academic content standards.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) The addition of more pupil support services staff, including, but not limited to, paraprofessionals, counselors, library media teachers, nurses, psychologists, social workers, speech therapists, audiologists, and speech pathologists.

(D) Pupil support centers for additional tutoring or homework assistance.

(E) Use of most current standards-aligned textbooks adopted by the ~~State Board of Education~~ *state board*, including materials for English language learners.

(F) For secondary schools, offering advanced placement courses and courses that meet the requirements for admission to the University of California or the California State University.

(g) A school action plan to improve pupil performance that is developed for participation in the program established pursuant to this article shall meet the requirements of subdivisions (d) and (e) of Section 52054 and this article.

SEC. 122. Section 52124 of the Education Code, as amended by Section 46 of Chapter 22 of the Statutes of 2005, is amended to read:

52124. (a) A school district that implements a class size reduction program pursuant to this chapter is subject to this section.

(b) A school district may establish a program to reduce class size in kindergarten and grades 1 to 3, inclusive, and that program shall be implemented at each schoolsite according to the following priorities:

(1) If only one grade level is reduced at a schoolsite, the grade level shall be grade 1.

(2) If only two grade levels are reduced at a schoolsite, the grade levels shall be grades 1 and 2.

(3) If three grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 and 2 or grades 1 to 3, inclusive. Priority shall be given to the reduction of class sizes in grades 1 and 2 before the class sizes of kindergarten or grade 3 are reduced.

(4) If four grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 to 3, inclusive. First priority shall be given to the reduction of class sizes in grades 1 and 2, and second priority shall be given to the reduction of class size in kindergarten and grade 3. This paragraph shall be operative only in those fiscal years for which funds are appropriated expressly for the purposes of this paragraph.

(c) It is the intent of the Legislature to continue to permit the use of combination classes of more than one grade level to the extent that school districts are otherwise permitted to use that instructional strategy. However, any school district that uses a combination class in any class for which funding is received pursuant to this chapter may not claim funding pursuant to this chapter if the total number of pupils in the combination class, regardless of grade level, exceeds 20 pupils per certificated teacher assigned to provide direct instructional services.

(d) The governing board of a school district shall certify to the Superintendent ~~of Public Instruction~~ that it has met the requirements of this section in implementing its class size reduction program. If a school district receives funding pursuant to this chapter but has not implemented its class size reduction program for all grades and classes for which it received funding pursuant to this chapter, the Superintendent ~~of Public Instruction~~ shall notify the Controller and the school district in writing and the Controller shall deduct an amount equal to the amount received by the school district under this chapter for each class that the school district failed to reduce to a class size of 20 or fewer pupils from the next principal apportionment or apportionments of state funds to the district, other than basic aid

apportionments required by Section 6 of Article IX of the California Constitution.

(e) Except for a school district participating pursuant to subdivision (h) of Section 52122, the amount deducted pursuant to subdivision (d) shall be adjusted as follows:

(1) Twenty percent of the amount to which the district would otherwise be eligible for each class for which the annual enrollment determined pursuant to Section 52124.5 is greater than or equal to 20.5 but less than 21.0.

(2) Forty percent of the amount to which the district would otherwise be eligible for each class for which the annual average enrollment determined pursuant to Section 52124.5 is greater than or equal to 21.0 but less than 21.5.

(3) Eighty percent of the amount to which the district would otherwise be eligible for each class for which the annual average enrollment determined pursuant to Section 52124.5 is greater than or equal to 21.5 but less than 21.9.

(4) The amount deducted pursuant to subdivision (d) for each class for which the annual average enrollment determined pursuant to Section 52141.5 is greater than or equal to 21.9 shall be the amount of funding the district received for the class pursuant to this chapter.

(f) Notwithstanding any other provision of this chapter, a school district located in the County of Los Angeles, Riverside, San Bernardino, San Diego, or Ventura may claim funding pursuant to this chapter for the 2003–04 school year based on enrollment counts before the October 2003 fires, in classes for which the class size reduction program is implemented, if the following criteria are met:

(1) The school district submits to the Superintendent ~~of Public Instruction~~ a "Request for Allowance of Attendance because of Emergency Conditions" pursuant to Section 46392 and the emergency conditions were caused by the October 2003 fires.

(2) The school district certifies that it suffered a loss of enrollment in classes in which the class size reduction program is implemented and this loss of enrollment is due to the October 2003 fires and would result in a decrease in funding that the district receives pursuant to this chapter.

(g) This section shall be operative until July 1, 2009, and as of January 1, 2010, is repealed, unless a later enacted statute deletes or ~~extend~~ *extends* that date.

SEC. 123. Section 52165 of the Education Code is amended to read:

52165. Each pupil of limited English proficiency enrolled in the California public school system in kindergarten ~~through grade~~ *and grades 1 to* 12, *inclusive,* shall receive instruction in a language understandable to the pupil ~~which~~ *that* recognizes the pupil's primary language and teaches the pupil English.

(a) In kindergarten ~~through grade~~ *and grades 1 to* 6~~:~~*, inclusive, the following shall apply:*

(1) ~~Whenever~~ *If* the language census indicates that any school of a school district has 10 or more pupils of limited English proficiency with the same primary language in the same grade level or 10 or more pupils of limited English proficiency with the same primary language, in the same age group, *and* in a multigrade or ungraded instructional environment, the school district shall offer instruction pursuant to subdivision (a), (b), or (c) of Section 52163 for ~~such~~ *those* pupils at the school. ~~Whenever~~ *If* there are pupils of limited English proficiency with different primary languages who do not otherwise ~~trigger~~ *satisfy* the program requirements of subdivision (a), (b), or (c) of Section 52163 or of this subdivision, a language development specialist defined in subdivision (b) may be used.

(2) ~~Commencing September 1, 1981, and to~~ *To* the extent state or federal categorical funds are available, the ~~following~~ services, *as described in this paragraph,* are required for pupils of limited English proficiency in concentrations of fewer than 10 per grade level~~: When~~. *If* there are fewer than 10 pupils of limited English proficiency in the same grade, but at least 20 ~~such~~ pupils *of limited English proficiency* in the school with the same primary language, the school district shall provide at least one certified bilingual-crosscultural teacher or teachers on waiver as defined in Section 52178 or 52178.5 and an individualized instruction program as defined in subdivision (f) of Section 52163 for ~~such~~ *those* pupils at the school. If the number of pupils of limited English proficiency in the school exceeds 45, the district shall provide two ~~such~~ *of those* teachers. These teachers may be used as resource teachers~~,~~ *or* team teachers or to provide

~~such~~ *any* other services to pupils of limited English proficiency as the district deems appropriate. These teachers shall be different teachers than those required pursuant to paragraph (1).

(b) The Legislature recognizes that in the past equal educational opportunities have not been fully available to secondary pupils of limited English proficiency. It is the intent of the Legislature to encourage school districts to offer a language learning program pursuant to subdivision (d) of Section 52163. Certified bilingual-crosscultural teachers or, if ~~no such~~ *those* teachers are *not* available, language development specialists assisted by a bilingual aide shall be qualified to provide instruction for ~~such~~ *those* programs. Language development specialists shall be formally trained and competent in the field of English language learning, including second language acquisition and development, structure of modern English, and basic principles of linguistics, and shall meet the culture and methodology competencies established by subdivisions (b) and (c) of Section 44253.5. The Commission for Teacher Preparation and Licensing shall provide for the assessment of language competencies specified ~~herein~~ *in this section* and shall modify existing culture and methodology competency for language development specialist to ~~insure~~ *ensure* that they meet the crosscultural and instructional methodologies for pupils being served by ~~such~~ *those* teachers. A ~~teachers~~ *teacher* of ~~english~~ *English* to speakers of other languages certificate from a ~~commission approved~~ *commission-approved* teacher training institution of higher education ~~which~~ *that* meets the criteria established by the commission pursuant to Section 44253.5 shall be accepted ~~in lieu~~ *instead* of the methodology requirement.

(c) In kindergarten and grades 1 ~~through~~ *to* 12, *inclusive,* pupils of limited English proficiency who are not enrolled in a program described in subdivision (a), (b), (c), or (d) of Section 52163, shall be individually evaluated and shall receive educational services defined in subdivision (e) or (f), as appropriate, of Section 52163. ~~Such~~ *These* services shall be provided in consultation with the pupil and the parent, parents, or guardian of the pupil.

(d) As a part of its consolidated application for categorical program funds, each district receiving ~~such~~ *those* funds shall include a specific plan indicating the ways in which the

individual learning plans will meet the needs of pupils of limited English proficiency. The plan shall describe all of the following: ~~(1)~~

(1) Procedures used in making the individual evaluation. ~~(2)~~

(2) The pupils' levels of English and primary language proficiency and levels of educational performance. ~~(3)~~

(3) Instructional objectives and scope of educational services to be provided. ~~(4)~~

(4) Periodic evaluation procedures, using objective criteria, to determine whether the instructional objectives are being met.

SEC. 124. Section 52295.35 of the Education Code is amended to read:

52295.35. (a) Applicants within each of the 11 California Technology Assistance Project regions shall compete against other applicants from that region. The amount of funding for grants available to each region shall be determined based upon the proportionate enrollment of pupils in grades 4 to 8, inclusive, in eligible schools from that region, but a region shall not be allocated less than five hundred thousand dollars ($500,000) or 2 percent of available grant funds, whichever amount is greater.

(b) If a region is allocated more funding than is needed for its eligible applicants, the Superintendent may develop a policy to ensure that all funding is distributed to other regions for their eligible but unfunded applicants.

(c) Grants shall be awarded to an eligible school district for the eligible school or schools specified in the program application. All grant funds shall be spent in a manner consistent with the local educational agency technology plan, pursuant to subdivision (a) of Section 51871.5 and subdivision (a) of Section 2414 of Part D of Title II of the No Child Left Behind Act of 2001 ~~(Public Law~~ *(P.L.* 107-110), and the program application and shall be used for the eligible school or schools specified in the approved application.

(d) The initial one-time implementation grant for a school selected to receive a grant shall be calculated based upon three hundred dollars ($300) per pupil for pupils in grades 4 to 8, inclusive. Upon recommendation from the department, the ~~State Board of Education~~ *state board* may adopt criteria that establish fixed minimum grant levels for a small school.

(e) Subject to availability of federal funding appropriated for competitive grants under Part D of Title II of the federal No Child Left Behind Act of 2001 ~~(Public Law~~ *(P.L.* 107-110), any grant recipient that successfully completes the initial grant shall receive an additional one-time grant of forty-five dollars ($45) per pupil in grades 4 to 8, inclusive, at the school or schools selected for funding. The purpose of this funding shall be to continue implementation of the grant recipients' approved technology plan in a manner consistent with the requirements of Part D of Title II of the federal No Child Left Behind Act of 2001 ~~(Public Law~~ *(P.L.* 107-110), including plans to sustain the use of technology as a tool in improving teaching and pupil academic achievement once the grant period ends.

~~(f) This section shall become operative July 1, 2005.~~

SEC. 125. Section 52740 of the Education Code is amended to read:

52740. *(a)* It is the intent of the Legislature to provide accurate instructional materials to schools on ~~(a) the~~ *all of the following topics:*

(1) The internment in the United States of persons of Japanese origin and its impact on Japanese-American citizens~~, (b) the~~.

(2) The Armenian genocide~~, and (c) the~~.

(3) The World War II internment, relocation, and restriction in the United States of persons of Italian origin and its impact on the ~~Italian American~~ *Italian-American* community.

(b) The Legislature finds and declares that there are few films or videotapes available on the subjects of the internment of persons of Japanese origin, the Armenian genocide, and the World War II internment, relocation, and restriction of persons of Italian origin, for teachers to use when teaching pupils about these three devastating events. The shortage of available films or videotapes on these subjects is especially true for the Armenian genocide.

(c) The Legislature hereby finds and declares that films and videotapes giving a historically accurate depiction of the internment in the United States of persons of Japanese origin during World War II, the Armenian genocide, and the World War II internment, relocation, and restriction ~~of~~persons *of persons* of Italian origin, should be made in order that pupils will recognize these events for the horror they represented. The

Legislature hereby encourages teachers to use these films and videotapes as a resource in teaching pupils about these three important historical events that are commonly overlooked in today's school curriculum.

SEC. 126. Section 56441 of the Education Code is amended to read:

56441. The Legislature hereby finds and declares that early education programs for individuals with exceptional needs between the ages of three and five years, inclusive, that provide special education and related services within the typical environment appropriate for young children, and include active parent involvement, may do the following:

(a) Significantly reduce the potential impact of any disabling conditions.

(b) Produce substantial gains in physical development, cognitive development, language and speech development, psychosocial development, and self-help skills development.

(c) Help prevent the development of secondary disabling conditions.

(d) Reduce family stresses.

(e) Reduce societal dependency and institutionalization.

(f) Reduce the need for special class placement in special education programs once ~~the children reach schoolage~~ *a child reaches school age*.

(g) Save substantial costs to society and our schools.

SEC. 127. Section 58407 of the Education Code is amended to read:

58407. The ~~State Board of Education~~ *state board* may waive any provision of ~~the Education Code~~ *this code*, with the exception of ~~Sections 15501 to 15518, inclusive~~ *Article 1 (commencing with Section 16500)*, and Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 ~~of Division 3 of this title~~, which it deems is necessary to waive to assure the success of the program authorized by this chapter.

SEC. 128. Section 58520 of the Education Code is amended to read:

58520. ~~(a)~~ This chapter shall be known and may be cited as the Single Gender Academies Pilot Program Act of 1996.

SEC. 129. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts, including, but not limited to, spelling and reading.

(2) Mathematics.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) not less than two times every six years and in any of the subject areas pursuant to paragraph (6) of subdivision (a) not less than two times every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with the six- and eight-year submission cycles and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision (c). The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use

the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Adequately cover the subject area for the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the *state* board determines that the use of the commercial brand name, product, or corporate or company logo is appropriate based on one of the following specific findings:

(A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the ~~State Board of Education~~ *state board*.

(B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.

(6) Meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of ~~this act~~ *Chapter 1181 of the Statutes of 1989*, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(d) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (c). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(e) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (c), or the materials fail to meet the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) ~~Nothing in this~~ *This* section ~~shall~~ *does not* limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) If a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district governing board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(h) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based

materials to meet the goals of the program and the needs of pupils.

(i) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the board for continuing items on that list shall be the earlier of not more than six years from the date of adoption for instructional materials pertaining to subject areas designated in paragraphs (1) to (5), inclusive, of subdivision (a), and not more than eight years from the date of adoption for instructional materials pertaining to subject areas designated in paragraph (6) of subdivision (a), or the date on which the state board adopts instructional materials based upon a new or revised curriculum framework. Lists of adopted materials shall be made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(*l*) The lists maintained pursuant to this section shall not be deemed to control the use period by any local district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) ~~Nothing in this~~ *This* section ~~shall be construed to~~ *does not* prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify ~~third party~~ *third-party* sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

(p) The Superintendent ~~of Public Instruction~~ shall develop, and the ~~State Board of Education~~ *state board* shall adopt, guidelines to implement this section.

SEC. 130. Section 66070 of the Education Code is amended to read:

66070. The Legislature finds and declares ~~all~~ *both* of the following:

(a) The primary goal of every higher educational institution should be to provide a collegiate experience ~~which~~ *that* gives each student the skills of communication and problemsolving, the ideas and principles underlying the major areas of modern knowledge, the ability to consider critical issues thoughtfully, the understanding that learning is a continuous lifelong process, and the knowledge of democracy necessary for good citizenship.

(b) To improve performance, educational institutions are encouraged to use effective assessment mechanisms based on positive reinforcement, incentives, and cooperation.

SEC. 131. Section 66406 of the Education Code is amended to read:

66406. (a) The Legislature finds and declares that the production and pricing of college textbooks deserves a high level of attention from educators and lawmakers because they impact the quality and affordability of higher education.

(b) The State of California urges textbook publishers to do all of the following:

(1) "Unbundle" the ~~instruction~~ *instructional* materials to give students the option of buying textbooks, CD-ROMs, and workbooks ~~"a~~ "*à* la carte" or without additional materials.

(2) Provide all of the following information to faculty and departments when they are considering what textbooks to order, and post both of the following *types of* information on publishers' *Internet* Web sites where it is easily accessible:

(A) A list of all *of* the different products they sell, including both bundled and unbundled options, and the net price of each product.

(B) An explanation of how the newest edition is different from previous editions.

(3) Give preference to paper or online supplements to current editions rather than producing entirely new editions.

(4) Disclose to faculty the length of time they intend to produce the current edition so that professors know how long they can use the same book.

(5) Provide to faculty a free copy of each textbook selected by faculty for use in the classroom for placement on reserve in the campus library.

(c) The Trustees of the California State University and the Board of Governors of the California Community Colleges shall, and the Regents of the University of California are requested to, accomplish all of the following:

(1) Work with the academic senates of each respective segment to do all of the following:

(A) Encourage faculty to give consideration to the least costly practices in assigning textbooks, varying by discipline, such as adopting the least expensive edition when the educational content is equal, and using a selected textbook as long as it is educationally sound, as determined by the appropriate faculty.

(B) Encourage faculty to disclose both of the following to students:

(i) How new editions of textbooks are different from the previous editions.

(ii) The cost to students for textbooks selected for use in each course.

(C) Review procedures for faculty to inform college and university bookstores of textbook selections.

(D) Encourage faculty to work closely with publishers and college and university bookstores in creating bundles and packages if they are economically sound and deliver cost savings to students, and if bundles and packages have been requested by faculty. Students should have the option of purchasing textbooks and other instructional materials that are “unbundled.”

(2) Require college and university bookstores to work with the academic senates of each respective campus to do both of the following:

(A) Review issues relative to timelines and processes involved in ordering and stocking selected textbooks.

(B) Work closely with faculty or publishers, or both, to create bundles and packages that are economically sound and deliver cost savings to students.

(3) Encourage college and university bookstores to disclose retail textbook costs, on a per course basis, to faculty, and make this information otherwise publicly available.

(4) Encourage campuses to provide as many forums for students to have access to as many used books as possible, including, but not necessarily limited to, all of the following:

(A) Implementing campus-sponsored textbook rental programs.

(B) Encouraging students to consider on-campus and online book swaps so that students may buy and sell used books and set their own prices.

(C) Encouraging students to consider student book lending programs.

(D) Encouraging college and university bookstores that offer book buyback programs to actively promote and publicize these programs.

(E) Encouraging the establishment of textbook rental programs and any other appropriate approaches to providing high-quality materials that are affordable to students.

(d) It is the intent of the Legislature to encourage private colleges and universities to work with their respective academic senates and to encourage faculty to consider practices in selecting textbooks that will result in the lowest costs to students.

SEC. 132. Section 66609 of the Education Code is amended to read:

66609. *(a)* All state employees employed on June 30, 1961, in carrying out functions transferred to the Trustees of California State University by this chapter, except persons employed by the Director of Education in the Division of State Colleges and Teacher Education of the *State* Department of Education, are transferred to the California State University.

(b) Nonacademic employees ~~so~~ transferred *under this section* shall retain their respective positions in the state service, together with the personnel benefits accumulated by them at the time of transfer, and shall retain ~~such~~ *the* rights ~~as may attach~~ *attached* under the law to the positions ~~which~~ *that* they held at the time of transfer. All nonacademic positions filled by the trustees on and after July 1, 1961, shall be by appointment made in accordance with Chapter 5 (commencing with Section 89500) of Part 55, and persons so appointed shall be subject to ~~the provisions of~~ Chapter 5.

(c) (1) The trustees shall provide, or cooperate in providing, academic and administrative employees transferred by this section with personnel rights and benefits at least equal to those accumulated by them as employees of the state colleges, except that any administrative employee may be reassigned to an academic or other position commensurate with his or her qualifications at the salary fixed for that position. An administrative employee so reassigned shall have a right to appeal from ~~such~~ *that* reassignment, but only as to whether the position to which he or she is reassigned is commensurate with his or her qualifications. All academic and administrative positions filled by the trustees on and after July 1, 1961, shall be filled by appointment made solely at the discretion of the trustees. ~~The~~

(2) The trustees shall establish and adjust the salaries and classifications of all academic, nonacademic, and administrative positions and neither Section ~~18004~~ *19825* of the Government Code nor any other provision of law requiring approval by a state officer or agency for salaries or classifications shall be applicable thereto. In establishing and adjusting salaries, consideration shall be given to the maintenance of the state university in a competitive position in the recruitment and retention of qualified personnel in relation to other educational institutions, private industry, or public jurisdictions ~~which~~ *that* are employing personnel with similar duties and responsibilities. ~~The~~

(3) The establishment and adjustment of salaries for nonacademic employees shall be in accordance with the standards prescribed in Section ~~18850~~ *19826* of the Government Code. The trustees, however, shall make no adjustments ~~which~~ *that* require expenditures in excess of existing appropriations

available for the payment of salaries. ~~The provisions of~~ Chapter 5 (commencing with Section 89500) of Part 52, relating to appeals from dismissal, demotion, or suspension, shall be applicable to academic employees.

(d) Persons excluded from the transfer made by this section shall retain all the rights and privileges conferred upon civil service employees by law. Personnel of state agencies employed in state university work other than those transferred by this section, and who are employed by the trustees prior to July 1, 1962, shall be provided with personnel rights and benefits at least equal to those accumulated by them as employees of ~~such~~ *those* state agencies.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that, if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 133. Section 69539 of the Education Code is amended to read:

69539. *(a)* A Cal Grant C award shall be utilized for occupational or technical training.

~~(a)~~

(b) "Occupational or technical training" means that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

~~(b)~~

(c) The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

~~(c)~~

(d) The Cal Grant C recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in ~~comformance~~ *conformance* with terms prescribed by the commission. In no case shall the grants exceed two calendar years.

~~(d)~~

(e) Cal Grant C awards shall be for institutional fees, charges, and other costs, including tuition, plus training-related costs, such as special clothing, local transportation, required tools, equipment, supplies, and books. In determining the amount of grants and training-related costs, the commission shall take into account other state and federal programs available to the applicant.

~~(e)~~

(f) Cal Grant C awards shall be awarded in areas of occupational or technical training as determined by the commission after consultation with appropriate state and federal agencies.

SEC. 134. Section 69640 of the Education Code is amended to read:

69640. *(a)* It is the intent of the Legislature that the California Community Colleges recognize the need and accept the responsibility for extending the opportunities for community college education to all who may profit ~~therefrom~~ *from that education* regardless of economic, social, and educational status. It is the intent and purpose of the Legislature in establishing the Community College Extended Opportunity Programs and Services (EOPS) to encourage local community colleges to establish and implement programs directed to identifying those students affected by language, social, and economic handicaps, to increase the number of eligible EOPS students served, and to assist those students to achieve their educational objectives and goals, including, but not *necessarily* limited to, obtaining job skills, occupational certificates, or associate degrees, and transferring to four-year institutions.

(b) The rules and regulations of the Board of Governors of the California Community Colleges shall be consistent with this article. ~~These~~ *The operation of EOPS, as well as these* rules and regulations, ~~and EOPS,~~ shall be consistent with all of the following goals:

~~(a)~~

(1) To increase the number and percentage of students enrolled in community colleges who are affected by language, social, and economic disadvantages, consistent with state and local matriculation policies.

~~(b)~~

(2) To increase the number and percentage of ~~Extended Opportunity Programs and Services (EOPS)~~ *EOPS* students who successfully complete their chosen educational objectives.

~~(c)~~

(3) To increase the number and percentage of EOPS students who are successfully placed into career employment.

~~(d)~~

(4) To increase the number and percentage of EOPS students who transfer to four-year institutions following completion of the related educational programs at community colleges.

~~(e)~~

(5) To strive to assist community colleges to meet student and employee affirmative action objectives.

~~(f)~~

(6) To improve the delivery of programs and ~~sevices~~ *services* to the disadvantaged.

(c) The Legislature further intends that EOPS shall not be viewed as the only means of providing services to nontraditional and disadvantaged students or of meeting student and employee affirmative action objectives.

(d) The Legislature finds that the establishment and development of extended opportunity programs and services are essential to the conservation and development of the cultural, social, economic, intellectual, and vocational resources of the state.

SEC. 135. Section 76234 of the Education Code is amended to read:

76234. Whenever there is included in any student record information concerning any disciplinary action taken by a community college in connection with any alleged sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault, or any conduct that threatens the health and safety of the alleged victim, the alleged victim of that sexual ~~assualt~~ *assault* or physical abuse shall be informed within three days of the results of any disciplinary action by the community college and the results of any appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

SEC. 136. Section 81383 of the Education Code is amended to read:

81383. Notwithstanding Section 81360, the sale by the governing board of any community college district of any real property belonging to the community college district, or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located ~~thereon~~ *on the real property*, belonging to the community college district shall not be subject to Part 49 (commencing with Section 81000) or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

(a) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing for a qualified community college facility.

(b) (1) In the case of the sale of community college district property pursuant to this section, the community college district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(2) In the case of the lease of community college district property pursuant to this section, the community college district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.

(c) The financing proceeds obtained by the community college district pursuant to any transaction described in this section are expended solely for capital outlay purposes relating to a qualified community college facility, including the acquisition of real property for intended use as a site for a qualified community college facility and the design, planning, acquisition, construction, reconstruction, and renovation of qualified community college facilities.

(d) For purposes of this section and Section 81384, ~~the term~~ "qualified community college facility" means real and personal property, improvements, and related facilities that are determined in a resolution of the governing board of the community college district to satisfy each of the following requirements:

(1) The facilities will ~~(A) assist~~ *do both of the following:*

(A) Assist the community college district in reducing energy and resource consumption while creating a safer and healthier learning environment ~~and (B) operate~~.

(B) Operate as energy and resource efficient buildings by taking cost-effective measures similar to those described in the Green Building Action Plan promulgated by the Governor for facilities owned, funded, or leased by the state.

(2) The facilities are affordable for the community college district as set forth in estimated annual summary budgets of the community college district that include the estimated costs of financing the facilities during the estimated duration of the financing demonstrating that the reasonably anticipated expenditures during each fiscal year shall not exceed the reasonably anticipated revenues for that fiscal year.

SEC. 137. Section 81450 of the Education Code is amended to read:

81450. (a) The governing board of any community college district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder~~,~~ or ~~shall~~ reject all bids.

(b) The governing board may choose to conduct any sale of personal property authorized under this section by means of a public auction conducted by employees of the district or other public agencies, or by contract with a private auction firm. The board may delegate to the district employee responsible for conducting the auction the authority to transfer the personal property to the highest ~~reponsible~~ *responsible* bidder upon completion of the auction and after payment has been received by the district.

SEC. 138. Section 81645 of the Education Code is amended to read:

81645. The governing board of any community college district may contract with a party who has submitted one of the three lowest responsible competitive proposals or competitive bids~~,~~ for the acquisition, procurement, or maintenance of electronic~~ data-processing~~ *data processing* systems and equipment, electronic~~ telecommunication~~ *telecommunications* equipment, supporting software, and related materials, goods, and services, in accordance with procedures and criteria established by the governing board.

SEC. 139. Section 88167.5 of the Education Code is amended to read:

88167.5. (a) Notwithstanding any other *provision of* law, the governing board of a community college district that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization shall transmit the money to the employee organization within 15 days of issuing the paycheck containing the deduction to the employee.

(b) (1) This section does not limit the right of an employee organization or affected employee to sue for a failure of the employer to transmit dues or fees pursuant to this section.

(2) In an action brought for a violation of subdivision (a), the court may award reasonable~~ attorney~~ *attorney's* fees and costs to the prevailing party if any party to the action requests~~ attorney~~ *attorney's* fees and costs.

(c) This section applies to districts that have adopted the merit system in the same manner and effect as if it were a part of Article~~ 6~~ *3* (commencing with Section 88060).

SEC. 140. Section 89241 of the Education Code is amended to read:

89241. (a) This section shall be known and may be cited as the California Student Athlete Fair Opportunity Act of 2005.

(b) It is the intent of the Legislature to ensure that the Trustees of the California State University provide appropriate academic support services for student athletes and that those athletes are given a fair opportunity to earn a baccalaureate degree.

(c) The trustees shall ensure, through executive order or regulation, that all California State University campuses that provide athletic scholarships for student athletes also provide summer athletic scholarships commencing with the 2006 summer term. The provision of these summer athletic scholarships shall be consistent with both of the following:

(1) The requirements of Title IX of the federal Education Amendments of 1972, as amended from time to time.

(2) The bylaws of the National Collegiate Athletic Association, as amended from time to time.

(d) Students who are otherwise ineligible for admission to the specific campus of the California State University, but who are admitted under policies that permit those students to be admitted if they have athletic ability that will contribute to the campus, shall be given first priority for summer athletic scholarship assistance.

(e) (1) Summer athletic scholarships awarded pursuant to this section shall, at a minimum, be sufficient to cover the cost of tuition, fees, books, and supplies as calculated for purposes of the summer cost of attendance under the provisions of Title IV of the federal Education Act of 1965, as it is amended from time to time.

(2) Nothing in this part shall be construed to limit a summer athletic scholarship awarded pursuant to this section to any amount less than that which is allowed under the bylaws of the National Collegiate Athletic Association.

(3) A summer athletic scholarship awarded pursuant to this section shall be of sufficient amount and duration with regard to the number of summer sessions and the number of units covered, to provide a student athlete a fair opportunity to correct academic progress problems through attendance in a summer session.

(f) A summer athletic scholarship awarded pursuant to this section may be funded through any revenue source available to, or procured by, the campuses of the California State University, including, but not necessarily limited to, gate receipts, donations from alumni and others, corporate sponsorships, associated student contributions, *and* campus-based student fees that may be legally used for this purpose. In accordance with subdivision (i), the California State University shall not use state General Fund moneys or state university fee revenue to fund summer athletic

scholarships. The California State University shall not set aside, for the purposes of summer athletic scholarships, any institutional financial aid funds for which any financially needy students are ~~elgible~~ *eligible*. A student athlete may only receive summer financial aid assistance if that student athlete otherwise qualifies for that assistance irrespective of his or her status as a student athlete.

(g) (1) The trustees shall ensure, through executive order or regulation, that all California State University campuses that are members of the National Collegiate Athletic Association have a comprehensive plan for the academic support of student athletes.

(2) The plan adopted pursuant to this subdivision shall be consistent with the requirements of Title IX of the federal Education Amendments of 1972, as amended from time to time, and the bylaws of the National Collegiate Athletic Association, as amended from time to time. This plan shall include, but not necessarily be limited to, coordination with existing academic and financial support services at the campus, evaluation of the academic needs of student athletes, a set of academic support initiatives, a financing plan for these initiatives and a fund-raising strategy for the augmentation of these initiatives, and a regular evaluation mechanism to monitor the academic progress of athletes and the effectiveness of academic support programs.

(3) Services provided under this subdivision may include any of the following:

(A) Additional athletic financial assistance, which covers an amount up to the cost of attendance under the provisions of Title IV of the federal Education Act of 1965, as ~~it is~~ amended from time to time, for additional periods of attendance necessary for an athlete to complete the requirements for a baccalaureate degree after the student's period of athletic eligibility has ended.

(B) Employment assistance, including work study programs.

(C) Tutoring.

(D) Mentoring.

(E) Accommodations in the scheduling of class sections to provide a fair opportunity for student athletes to attend required courses in a manner that allows them to participate in the requirements of their sports.

(h) (1) The trustees shall report to the Legislature and the Governor on or before November 1, 2006, and subsequently on or before November 1 of each odd-numbered year, commencing on November 1, 2007, regarding the status of athletic academic progress and athletic academic support in the California State University system for all campuses that are members of the National Collegiate Athletic Association.

(2) If any data that are required to be reported pursuant to paragraph (3) could yield an individual identification of an athlete, or if any data or information required to be reported pursuant to paragraph (3) could be considered to be of a proprietary nature as related to the sports enterprise of the campus, those data may be forwarded under separate cover to the Governor and to the relevant policy committees of the Legislature with a request for confidentiality.

(3) The report required by this subdivision shall include, but not necessarily be limited to, all of the following information:

(A) A five-year history of the graduation rate and Academic Progress Rate of each team on each campus as calculated by the National Collegiate Athletic Association, to the extent these rates are available.

(B) Annual admission category information for each team on each campus that indicates the number and percent of students admitted who were not eligible for regular admission to the campus or the university.

(C) A summary of the academic initiatives and support programs available to the athletes at each campus.

(D) If the campus participates in Division I, including any of its subparts, of the National Collegiate Athletic Association, and if any team or the athletic program overall has an Academic Progress Rate score of less than 925 for any year, a summary of the corrective action planned by the campus or athletic department as well as a report on sanctions, if any, imposed by the National Collegiate Athletic Association.

(E) The total budget for the athletic programs and each team, including an itemization of the amount spent on athletic scholarships and the amount spent on summer athletic scholarships.

(i) The California State University shall not encumber, for the purposes of this section, any moneys from the state General Fund or any state university fee revenue.

SEC. 141. Section 89503 of the Education Code is amended to read:

89503. (a) The trustees may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees of the class specified in Section ~~18853~~ *19830* of the Government Code employed by the trustees, upon a finding by the trustees as to any position that the criteria stated in subdivision (a) of Section ~~18853.5~~ *19831* of the Government Code are satisfied.

(b) Payments made by the state pursuant to this section to any fund on behalf of any employees shall be in lieu of benefits such as vacation allowance, sick leave, and retirement ~~which~~ *that* may be granted directly by the state in accordance with law.

(c) The trustees may determine the equitable application of this section to ensure that the employees receive benefits comparable to, but not in excess of, those provided in comparable private employment.

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the California State University.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that, if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 142. Section 89750.5 of the Education Code is amended to read:

89750.5. (a) Notwithstanding Sections 948 and 965.2 of the Government Code or any other provision of law, the trustees may settle, adjust, or compromise any pending action~~,~~ or final judgment, without the need for a recommendation, certification, or approval from any other state officer or entity. The Controller shall draw a warrant for the payment of any settlement,

adjustment, or compromise, or final judgment against the trustees if the trustees certify that a sufficient appropriation for the payment of the settlement, adjustment, ~~or~~ compromise, or final judgment exists.

(b) Notwithstanding subdivision (c) of Section 905.2 of the Government Code or any other provision of law, the trustees may pay any claim for money or damages on express contract~~,~~ or for an injury for which the trustees or their officers or employees are liable, without approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* if the trustees determine that payment of the claim is in the best interests of the California State University and that funds are available to pay the claim. The authority of the trustees conferred by this subdivision does not alter any other requirements governing claims in the Tort Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code), except to grant the trustees authority to pay these claims.

(c) Notwithstanding Chapter 3 (commencing with Section 13940) of Part 4 of Division 3 of Title 2 of the Government Code, the trustees may discharge from accountability the sum of one thousand dollars ($1,000)~~,~~ or less, owing to the California State University if the trustees determine that the money is uncollectible or the amount does not justify the cost of collection. A discharge of accountability by the trustees does not release any person from the payment of any ~~money~~ *moneys* due the California State University.

SEC. 143. Section 92300 of the Education Code is amended to read:

92300. *(a)* The Regents of the University of California and any other public or private nonprofit agency may contract with the *State* Department of Education to establish and maintain a child development center on or near each campus of the university pursuant to ~~the provisions of~~ Chapter 2 (commencing with Section 8200) of Part 6 ~~of Division 1 of Title 1~~.

~~Such operating~~

(b) Operating agencies may accept student fees, parent fees, and private funds to operate campus child development centers, and may be reimbursed for ~~eligible~~ costs *that are eligible* pursuant to ~~Sections 8209 and 8380~~ *Section 8208*.

SEC. 144. Section 92611.7 of the Education Code is amended to read:

92611.7. (a) The regents are urged to offer, on at least a semiannual basis, to each of the university's filers, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of university officials.

(b) As used in this section, "filer" means each member, officer, or designated employee of the University of California, including a regent, who, because of his or her affiliation with the university or any subdivision or campus thereof, is required to file a ~~Statement~~ *statement* of ~~Economic Interests~~ *economic interests* in accordance with Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code.

(c) The regents shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to this section. These records shall be maintained for a period of at least five years after each course is offered. These records shall be public records subject to inspection and copying in accordance with subdivision (a) of Section 81008 of the Government Code and any other public records disclosure laws that are applicable to the university.

(d) Except as provided in subdivision (e), each filer shall attend the orientation course established pursuant to subdivision (a) in accordance with both of the following:

(1) For a person who, as of January 1, 2005, is a filer, as defined in subdivision (b), not later than December 31, 2005, and thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2007.

(2) For a person who becomes a filer, as defined in subdivision (b), after January 1, 2005, within six months after he or she becomes a filer, and at least once during each consecutive period of two calendar years commencing on January 1 of the first odd-numbered year thereafter.

(e) The requirements of subdivision (d) shall not apply to a filer, as defined in subdivision (b), who has taken an ethics orientation course through another state agency or the Legislature within the periods set forth in paragraphs (1) and (2) of subdivision (d) if, in the determination of the regents, that course

covered substantially the same material as the course the university would offer to the filer pursuant to this section.

SEC. 145. Section 94985 of the Education Code is amended to read:

94985. (a) Any institution that willfully violates any provision of Section 94800, 94810, 94814, or 94816, Sections 94820 to 94826, inclusive, *or* Section 94829, 94831, or 94832 may not enforce any contract or agreement arising from the transaction in which the violation occurred, and any willful violation is a ground for revoking an approval to operate in this state or for denying a renewal application.

(b) *(1)* Any person who claims that an institution is operating in violation of subdivision (a) of Section 94831, subdivision (a) of Section 94900, or Section 94915, or an institution is operating a branch or satellite campus in violation of subdivision (a) of Section 94857, may bring an action, in a court of competent jurisdiction, for the recovery of actual and or statutory damages as well as an equity proceeding to restrain and enjoin those violations, or both.

~~(1)~~

(2) At least 35 days prior to the commencement of an action pursuant to this subdivision, the plaintiff shall do all of the following:

(A) Notify the institution alleged to have violated subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, of the particular alleged violations.

(B) Demand that the institution apply for the bureau's approval to operate as required by subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, whichever is applicable.

(C) The notice shall be in writing, and shall be sent by regular mail and certified or registered mail, return receipt requested, to the location of the institution that is allegedly operating in violation of subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, whichever is applicable.

(D) The institution shall have 30 working days, from receipt of the notice, to file an application for approval to operate with the bureau.

(E) No action pursuant to this subdivision may be filed if the institution, within 30 working days after receipt of the notice, applies for the bureau's approval to operate as required by subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, whichever is applicable.

(F) If, within 35 days after receipt of the notice, the bureau has not received an application from the institution, the bureau shall mail the plaintiff a certification that the institution has not applied or been approved to operate pursuant to subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, whichever is applicable.

(G) The plaintiff shall also notify the bureau by mail and by certified or registered mail, return receipt requested, that he or she intends to bring an action pursuant to this section against the institution. Upon receipt of this notice, the bureau shall immediately investigate the institution's compliance with subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, whichever is applicable, and, if the bureau determines that the institution has violated the applicable section, the bureau shall immediately order the institution to cease and desist operations. For each day that the institution continues to operate in violation of the bureau's cease and desist order, the institution shall be fined one thousand dollars ($1,000).

~~(2)~~

(3) If the court finds that the institution has violated subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, all of the following shall occur:

(A) The court shall order the institution to cease all operations and to comply with all procedures set forth in this code pertaining to the closure of institutions.

(B) The court shall order the institution to pay all students who enrolled while the school was in violation of subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857 a refund of all tuition and fees paid to the institution and a statutory penalty of one thousand dollars ($1,000).

(C) The court shall order the institution to pay the prevailing party's ~~attorneys'~~ *attorney's* fees and costs.

(D) The court shall order the institution to pay to the bureau all fines incurred pursuant to subparagraph ~~(E)~~ *(G)* of paragraph ~~(1)~~ *(2)*.

(E) Any instrument of indebtedness, enrollment agreement, or contract for educational services is unenforceable pursuant to Section 94838. The court shall order the institution to mail a notice to all students who were enrolled while the school was in violation of subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, stating that instruments of indebtedness, enrollment agreements, and contracts for educational services are not enforceable. If the institution fails to provide adequate proof to the court and to the bureau that it has mailed this notice within 30 days of the court's order, the bureau shall mail the notice to the students and the court shall order the institution to pay the bureau's costs of generating and mailing the notices, in no case less than five thousand dollars ($5,000).

~~(3)~~

(4) Any violation of subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, and subdivision (a) of Section 94857 shall constitute an unfair business practice within the meaning of Section 17200 of the Business and Professions Code.

~~(4)~~

(5) A certification, issued by the bureau, that the institution has not applied for approval to operate and has not been approved to operate as required by subdivision (a) of Section 94831, subdivision (a) of Section 94900, Section 94915, or subdivision (a) of Section 94857, whichever is applicable, shall establish a conclusive presumption that the institution has violated this subdivision.

~~(5)~~

(6) All fines and other monetary amounts that an institution is ordered to pay pursuant to this subdivision may be collected from the institution itself and from the individuals who own the institution, whether or not the institution is organized as a corporation.

~~(6)~~

(7) Notwithstanding any provision of the contract or agreement, a student may bring an action for a violation of this article or for an institution's failure to perform its legal obligations and, upon prevailing thereon, is entitled to the recovery of damages, equitable relief, or any other relief authorized by this article, and reasonable attorney's fees and costs.

~~(d)~~

(c) If a court finds that a violation was willfully committed or that the institution failed to refund all consideration as required by subdivision (b) on the student's written demand, the court, in addition to the relief authorized under subdivision (b), shall award a civil penalty of up to two times the amount of the damages sustained by the student.

~~(e)~~

(d) The remedies provided in this article supplement, but do not supplant, the remedies provided under any other provision of law.

~~(f)~~

(e) An action brought under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the action.

~~(g)~~

(f) Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure established by the institution before enforcing any right or remedy is void and unenforceable.

~~(h)~~

(g) A student may assign his or her cause of action for a violation of this article to the bureau, or to any state or federal agency that guaranteed or reinsured a loan for the student or that provided any grant or other financial aid.

~~(i)~~

(h) This section applies to any action pending on the effective date of this section.

~~(j)~~

(i) This section supplements, but does not supplant, the authority granted the Division of Labor Standards Enforcement under Chapter 4 (commencing with Section 79) of Division 1 of the Labor Code to the extent that placement activities of trade

schools are subject to regulation by the division under the Labor Code.

~~(k)~~

(j) If a student commences an action or asserts any claim in an existing action for recovery on behalf of a class of persons, or on behalf of the general public, under Section 17200 of the Business and Professions Code, the student shall notify the bureau of the existence of the lawsuit, the court in which the action is pending, the case number of the action, and the date of the filing of the action or of the assertion of the claim. The student shall notify the bureau as required by this subdivision within 30 days of the filing of the action or of the first assertion of the claim, whichever is later. The student shall also notify the court that he or she has notified the bureau pursuant to this subdivision. Notwithstanding any other provision of law, no judgment may be entered pursuant to this section until the student has notified the bureau of the suit and notified the court that the bureau has been notified. This subdivision only applies to a new action filed or to a new claim asserted on or after January 1, 2002.

SEC. 146. Section 94990 of the Education Code is amended to read:

94990. The bureau is subject to the sunset review process conducted by the Joint Committee on Boards, Commissions, and Consumer Protection pursuant to ~~Division 1.2~~ *Chapter 1* (commencing with Section 473) of *Division 1.2 of* the Business and Professions Code. Notwithstanding that this chapter does not specify that it will become inoperative on a specified date, the analyses, reports, public hearings, evaluations, and determinations required to be prepared, conducted, and made pursuant to ~~Division 1.2~~ *Chapter 1* (commencing with Section 473) of *Division 1.2 of* the Business and Professions Code shall be prepared, conducted, and made in 2002 and every four years thereafter as long as this chapter is operative.

SEC. 147. Section 99156 of the Education Code is amended to read:

99156. A test agency shall prepare a clear, easily understandable written description of each standardized test it administers. A copy of the appropriate description shall be provided to the test subject or the test score recipient prior to the administration of the test or coinciding with the initial reporting

of a test score. The description shall include all of the following information:

(a) The purposes for which the test is constructed and intended to be used.

(b) For those tests used to predict performance, the subject matter included on these tests and the knowledge and skills ~~which~~ *that* the test purports to measure.

(c) Statements designed to provide information for interpreting the test scores, including the explanations of the test, the standard error of measurement, and for those tests used to predict performance, the correlation between test score and performance.

(d) Statements concerning the effects and uses of test scores, including both of the following:

(1) If the test score is used by itself or with other information to predict future grade point average, a summary of existing data on the extent to which the use of this test score will improve the accuracy of predicting future grade point average, over and above all other information used.

(2) A summary of existing data on the extent to which the improvement in test scores results from test preparation courses.

(e) A description of the form in which test scores will be reported, and whether the raw test scores will be altered in any way before being reported to the test subject.

(f) A complete description of any promises or covenants ~~which~~ *that* the test agency makes to the test subject with regard to any of the following matters:

(1) The accuracy of scoring.

(2) The time period within which the test subject's score will be reported to the test subject and to the test score recipients.

(3) The privacy of information relating to the test subject, including his or her test scores.

(g) The property interest in the test score held by the test subject, if any.

(h) The period of time the test agency will retain the test score, and the test agency's policies regarding the storage, disposal, and future use of test scores.

(i) A description of all special services ~~which~~ *that* will be provided at the location of the test administration to accommodate handicapped or disabled test subjects.

(j) The policies and procedures of the test agency when there is a delay in reporting the test scores pursuant to Section ~~91160~~ *99158*.

(k) A representative set of sample test items.

(*l*) The fees to be charged by the test sponsor for various services made available to the test subject.

(m) Each test agency shall comply with the requirements of this section beginning with the start of its testing year ~~which~~ *that* begins after January 1, 1985.

SEC. 148. Section 100603 of the Education Code is amended to read:

100603. *(a)* Bonds in the total amount of thirteen billion fifty million dollars ($13,050,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100644 and 100755, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

SEC. 149. Section 7154 of the Elections Code is amended to read:

7154. (a) Each officer named in subdivision (a) of Section 7150 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December, in the case of ~~legislators~~ *Members of the Legislature,* and the Monday after January 1, in the case of other officers, next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to

fill a vacancy in the office of ~~any~~ that officer, shall be known as a "holdover member."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election by that party shall be known as a "nominee member." Nominees for an office, the term of which extends beyond two years, are members of each succeeding state central committee until that following the direct primary election at which nominations for the office are again to be made. If a candidate is a "nominee member" in the year in which he or she is nominated, and is elected to the office at the succeeding general election, the candidate shall be considered a "holdover member" in the next odd-numbered year.

(c) One member shall be appointed pursuant to Section 7168 for each of the officers named in subdivision (a) of Section 7150 not represented by a "holdover member" nor by a "nominee member" of the party.

SEC. 150. Section 7854 of the Elections Code is amended to read:

7854. The removal of residence by an elected or appointed member of a county central committee from the county from which the member was elected shall constitute the ~~of the member~~ *member's* automatic resignation from the committee.

SEC. 151. Section 9086 of the Elections Code is amended to read:

9086. The ballot pamphlet shall contain as to each state measure to be voted upon, the following, in the order set forth in this section:

(a) Upon the top portion of the first page, and not exceeding one-third of the page, shall appear:

(1) Identification of the measure by number and title.

(2) The official summary prepared by the Attorney General.

(3) The total number of votes cast for and against the measure in both the State Senate and Assembly, if the measure was passed by the Legislature.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on a single page. If it does not fit on a single page, the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the final page of the analysis of the Legislative Analyst ~~—ends~~. The rebuttals shall be placed immediately below the arguments.

(d) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(e) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(f) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency."

SEC. 152. Section 9096 of the Elections Code is amended to read:

9096. (a) As soon as copies of the ballot pamphlet are available, the Secretary of State shall immediately mail the following number of copies to the listed persons and places:

(1) Five copies to each county elections official or registrar of voters~~;~~.

(2) Six copies to each city elections official.

(3) Five copies to each Member of the Legislature.

(4) Five copies to the proponents of each ballot measure.

(b) The Secretary of State shall also mail:

(1) Two copies to each public library and branch thereof.

(2) Twelve copies to each public high school or other public school teaching at least the 11th and 12th grades, and 25 copies to each public ~~public~~ institution of higher learning. Upon request, and in the discretion of the Secretary of State, additional copies may be furnished to these persons and institutions.

SEC. 153. Section 10225 of the Elections Code is amended to read:

10225. (a) Notwithstanding Sections 10220 and 10224, if nomination papers for an incumbent officer of the city are not filed by *or* on the 88th day before the election, during normal

business hours, as posted, the voters shall have until the 83rd day before the election during normal business hours, as posted, to nominate candidates other than the person who was the incumbent on the 88th day, for that incumbent's elective office.

(b) This section is not applicable where there is no incumbent eligible to be elected. If this section is applicable, notwithstanding Section 10224, a candidate may withdraw his or her nomination paper until the 83rd day before the election during normal business hours, as posted.

SEC. 154. Section 15375 of the Elections Code is amended to read:

15375. The elections official shall send to the Secretary of State within 35 days of the election in the manner requested one complete copy of all results as to all of the following:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) Member of the Assembly.

(2) Member of the Senate.

(3) Member of the United States House of Representatives.

(4) Member of the State Board of Equalization.

(5) Justice of the Court of Appeal.

(6) Judge of the superior court.

~~(7) Judge of the municipal court.~~

(c) All persons voted for at the presidential primary. The results for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed and shall be sent within 28 days after the election.

(d) The vote given for persons for electors of President and Vice President of the United States. The results for presidential electors shall be endorsed "Presidential Election Returns."

(e) All statewide measures.

SEC. 155. Section 1560 of the Evidence Code is amended to read:

1560. (a) As used in this article:

(1) "Business" includes every kind of business described in Section 1270.

(2) "Record" includes every kind of record maintained by a business.

(b) Except as provided in Section 1564, when a subpoena duces tecum is served upon the custodian of records or other

qualified witness of a business in an action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness *delivers by mail or otherwise a true, legible, and durable copy of all of the records described in the subpoena to the clerk of the court or to another person described in subdivision (d) of Section 2026.010 of the Code of Civil Procedure, together with the affidavit described in Section 1561,* within ~~five~~ *one of the following time periods:*

(1) In any criminal action, five days after the receipt of the subpoena ~~in any criminal action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, or within~~.

(2) In any civil action, within 15 days after the receipt of the subpoena ~~in any civil action or within~~.

(3) Within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness~~, delivers by mail or otherwise a true, legible, and durable copy of all the records described in the subpoena to the clerk of the court or to another person described in subdivision (d) of Section 2026.010 of the Code of Civil Procedure, together with the affidavit described in Section 1561~~.

(c) The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of the court.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition or at the officer's place of business.

(3) In other cases, to the officer, body, or tribunal conducting the hearing, at a like address.

(d) Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness

who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or other hearing, upon the direction of the judge, officer, body, or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition, or hearing. Records ~~which~~ *that* are original documents and ~~which~~ *that* are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom received. Records ~~which~~ *that* are copies may be destroyed.

(e) As an alternative to the procedures described in subdivisions (b), (c), and (d), the subpoenaing party in a civil action may direct the witness to make the records available for inspection or copying by the party's attorney, the attorney's representative, or deposition officer as described in Section 2020.420 of the Code of Civil Procedure, at the witness' business address under reasonable conditions during normal business hours. Normal business hours, as used in this subdivision, means those hours that the business of the witness is normally open for business to the public. When provided with at least five business days' advance notice by the party's attorney, attorney's representative, or deposition officer, the witness shall designate a time period of not less than six continuous hours on a date certain for copying of records subject to the subpoena by the party's attorney, attorney's representative, or deposition officer. It shall be the responsibility of the attorney's representative to deliver any copy of the records as directed in the subpoena. Disobedience to the deposition subpoena issued pursuant to this subdivision is punishable as provided in Section 2020.240 of the Code of Civil Procedure.

SEC. 156. Section 274 of the Family Code is amended to read:

274. (a) Notwithstanding any other provision of law, ~~where~~ *if* the injured spouse is entitled to a remedy authorized pursuant to ~~subdivision (a) of~~ Section 4324, the injured spouse shall be entitled to an award of reasonable attorney's fees and costs as a sanction pursuant to this section.

(b) An award of attorney's fees and costs as a sanction pursuant to this section shall be imposed only after notice to the

party against whom the sanction is proposed to be imposed and opportunity for that party to be heard.

(c) An award of attorney's fees and costs as a sanction pursuant to this section is payable only from the property or income of the party against whom the sanction is imposed, except that the award may be against the sanctioned party's share of the community property. In order to obtain an award under this section, the party requesting an award of attorney's fees and costs is not required to demonstrate any financial need for the award.

SEC. 157. Section 3046 of the Family Code is amended to read:

3046. (a) If a party is absent or relocates from the family residence, the court shall not consider the absence or relocation as a factor in determining custody or visitation in either of the following circumstances:

(1) The absence or relocation is of short duration and the court finds that, during the period of absence or relocation, the party has demonstrated an interest in maintaining custody or visitation, the party maintains, or makes reasonable efforts to maintain, regular contact with the child, and the party's behavior demonstrates no intent to abandon the child.

(2) The party is absent or relocates because of an act or acts of actual or threatened domestic or family violence by the other party.

(b) The court may consider attempts by one party to interfere with the other party's regular contact with the child in determining if the party has satisfied the requirements of subdivision (a).

(c) This section does not apply to *either of* the following:

(1) A party against whom a protective or restraining order has been issued excluding the party from the dwelling of the other party or the child, or otherwise enjoining the party from assault or ~~harrassment~~ *harassment* against the other party or the child, including, but not limited to, orders issued under Part 4 (commencing with Section 6300) of Division 10, orders preventing civil harassment or workplace violence issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, and criminal protective orders issued pursuant to Section 136.2 of the Penal Code.

(2) A party who abandons a child as provided in Section 7822.

SEC. 158. Section 3121 of the Family Code is amended to read:

3121. (a) In any proceeding pursuant to Section 3120, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a government entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(b) Whether one party shall be ordered to pay attorney's fees and costs for another party, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties' respective abilities to pay. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(c) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(d) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of a proceeding described in Section 3120, or any proceeding related thereto, including after any appeal has been concluded.

(e) Except as provided in ~~paragraph (g)~~ *subdivision (f)*, an application for a temporary order making, augmenting, or modifying an award of attorney's fees, including a reasonable retainer to hire an attorney, or costs, or both, shall be made by motion on notice or by an order to show cause during the pendency of any proceeding described in Section 3120.

(f) The court shall rule on an application for fees under this section within 15 days of the hearing on the motion or order to show cause. An order described in subdivision (a) may be made

without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure. The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

SEC. 159. Section 4905 of the Family Code, as amended by Section 3 of Chapter 349 of the Statutes of 2002, is amended to read:

4905. *(a)* In a proceeding to establish or enforce a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if any of the following apply:

(1) The individual is personally served with notice within this state.

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

(3) The individual resided with the child in this state.

(4) The individual resided in this state and provided prenatal expenses or support for the child.

(5) The child resides in this state as a result of the acts or directives of the individual.

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.

(7) The individual has filed a declaration of paternity pursuant to Chapter 3 (commencing with Section 7570) of Part 2 of Division 12.

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subdivision (a) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of the state to modify a child support order of another state unless the requirements of Section 4960 or 4964 are met.

SEC. 160. Section 7605 of the Family Code is amended to read:

7605. (a) In any proceeding to establish physical or legal custody of a child or a visitation order under this part, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a government entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(b) Whether one party shall be ordered to pay attorney's fees and costs for another party, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties' respective abilities to pay. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(c) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(d) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of a proceeding described in subdivision (a), or any proceeding related thereto, including after any appeal has been concluded.

(e) Except as provided in ~~paragraph (g)~~ *subdivision (f)*, an application for a temporary order making, augmenting, or modifying an award of attorney's fees, including a reasonable retainer to hire an attorney, or costs, or both, shall be made by motion on notice or by an order to show cause during the pendency of any proceeding described in subdivision (a).

(f) The court shall rule on an application for fees under this section within 15 days of the hearing on the motion or order to show cause. An order described in subdivision (a) may be made

without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure. The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

SEC. 161. Section 9201 of the Family Code is amended to read:

9201. (a) Except as otherwise permitted or required by statute, neither the department nor a licensed adoption agency shall release information that would identify persons who receive, or have received, adoption services.

(b) Employees of the department and licensed adoption agencies shall release to the department at Sacramento any requested information, including identifying information, for the purposes of recordkeeping and monitoring, evaluation, and regulation of the provision of adoption services.

(c) Prior to the placement of a child for adoption, the department or licensed adoption agency may, upon the written request of both a birth and a prospective adoptive parent, arrange for contact between these birth and prospective adoptive parents that may include the sharing of identifying information regarding these parents.

(d) The department and any licensed adoption agency may, upon written authorization for the release of specified information by the subject of that information, share information regarding a prospective adoptive parent or birth parent with other social service agencies, including the department and other licensed adoption agencies, or providers of health care as defined in Section 56.05 of the Civil Code.

(e) Notwithstanding any other law, the department and any licensed adoption agency may furnish information relating to an adoption petition or to a child in the custody of the department or any licensed adoption agency to the juvenile court, county welfare department, public welfare agency, private welfare agency licensed by the department, provider of foster care services, potential adoptive parent, or provider of health care as

defined in Section 56.05 of the Civil Code, if it is believed the child's welfare will be promoted thereby.

(f) The department and any licensed adoption agency may make ~~adoptions~~ *adoption* case records, including identifying information, available for research purposes, provided that the research will not result in the disclosure of the identity of the child or the parties to the adoption to anyone other than the entity conducting the research.

SEC. 162. Section 687 of the Financial Code is amended to read:

687. (a) For purposes of Section 316 of the Corporations Code, to the extent that the making by a bank or by any majority-owned subsidiary of a bank of a distribution to any shareholder of the bank is contrary to any provision of Article 3 (commencing with Section 640), the making of the distribution shall, to ~~the~~ *that* extent, be deemed to be contrary to the provisions of Section 500 of the Corporations Code.

(b) The commissioner may, in the name of the people of this state, bring or intervene in an action under Section 316 of the Corporations Code for the benefit of a bank against any or all of the directors of the bank or of any majority-owned subsidiary of the bank on account of the making of a distribution to any shareholder of the bank contrary to any provision of Article 3 (commencing with Section 640) or any provision of Sections 501, 502, and 503 of the Corporations Code, to the same extent as a creditor of the bank who did not consent to the illegal distribution and who had a valid claim against the bank ~~which~~ *that* arose prior to the time of the illegal distribution~~,~~ and ~~which~~ exceeded the amount of the illegal distribution, may bring the action in the name of the bank.

(c) As an alternative to the action provided for in subdivision (b), the commissioner ~~may~~ *may* levy a civil penalty against the bank pursuant to Section 216.3.

SEC. 163. Section 1800 of the Financial Code is amended to read:

1800. (a) It is the intent of the Legislature in enacting this chapter to protect the people of this state from being victimized by unscrupulous practices by persons receiving money for transmission to foreign countries and to establish a minimum level of fiscal responsibility and corporate integrity for all entities

engaging in the business of receiving money for transmission to foreign countries without regard to the method of transmission.

(b) The Legislature finds and declares that California has a large and diverse population, many of whom are concerned with the financial plight of people remaining in the countries ~~which~~ *that* they left. Many of these people are not ~~familar~~ *familiar* with the varied and intricate financial systems of this state and due to language barriers and other obstacles do not have access to entities offering legitimate money transmission services. In an effort to transmit money to their friends and relatives, these persons give their money to persons under the precept that the money or its equivalent will be immediately transmitted to the designated foreign country. The money is frequently misappropriated or never transmitted. The victims of these practices are generally not aware of the law enforcement services available to help them, thus this unlawful conduct goes unreported.

SEC. 164. Section 5303 of the Financial Code is amended to read:

5303. Any officer, director, employee, or agent of any association ~~(a)~~ who *(a)* willfully makes or knowingly concurs in the making or publishing of a false or untrue material entry in any book, record, report, statement concerning the business or affairs of the association, or statement of condition or in connection with any transaction of the association, with intent to deceive any officer or director thereof, or with intent to deceive any agency or examiner, whether private or public, employed or lawfully appointed to examine into the ~~assocation's~~ *association's* condition or to examine into any of the association's affairs or transactions, or with intent to deceive any public officer, office, or board to which the association is required by law to report or ~~which~~ *that* has authority by law to examine into the association's affairs or transactions ~~or~~, (b) ~~who,~~ with like intent, willfully omits to make a material new entry of any matter particularly pertaining to the business, property, condition, affairs, transactions, assets, or accounts of the association in any appropriate book, record, report, or statement of the association, which entry is required to be made by law or generally accepted accounting principles applicable to a savings institution, or (c) ~~who,~~ with like intent, willfully alters, abstracts, conceals, refuses

to allow to be inspected by the commissioner or the commissioner's deputies or examiners, or destroys any books, records, reports, or statements of the association made, written, or kept, or required to be made, written, or kept by him or her or under his or her direction, shall be punished by a fine of not more than one million dollars ($1,000,000), by imprisonment in the state prison for ~~2, 3, or 4~~ *two, three, or four* years, or by both that fine and imprisonment.

SEC. 165. Section 6503 of the Financial Code is amended to read:

6503. (a) No association or subsidiary thereof, without the prior written consent of the commissioner, shall enter into either of the following:

(1) Any transaction or modification of any transaction with an affiliated person to buy, lease, or sell real or personal property, or take that property by gift.

(2) Any consulting contracts or contracts for services with an affiliated person.

(b) As a condition to approving a transaction specified in subdivision ~~(b)~~ *(a)*, the commissioner shall make both of the following findings:

(1) The terms of the transaction are fair to, and in the best interests of, the savings association or subsidiary. In the case of real or personal property transactions, this finding shall be supported by an appraisal not prepared by an affiliated person or employee of the association or subsidiary.

(2) The transaction was approved in advance by a resolution duly adopted with full disclosure by at least a majority ~~(with~~, *with* no director having an interest in the transaction ~~voting)~~ *voting*, of the entire board of directors of the association or subsidiary ~~(or~~, *or* alternatively, by a majority of the total votes eligible to be cast by the voting members or stockholders of the association at a meeting called for that purpose, with no votes cast by proxies not solicited for that ~~purpose)~~ *purpose*. For purposes of this subdivision, "full disclosure" shall include, but not be limited to, (A) the affiliated person's source of financing for any real property involved in the transaction and (B) whether the association or any subsidiary thereof has a deposit relationship with any financial institution or holding company or ~~affilite~~ *affiliate* thereof providing the financing.

SEC. 166. Section 7263 of the Financial Code is amended to read:

7263. Bonds of any other political subdivision, public corporation, or district of the State of California (herein referred to generally as public corporations) having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of those bonds upon all property within its boundaries subject to taxation by the public corporation, ~~provided~~ *if* the net direct debt of that public corporation together with its net overlapping debt does not exceed 25 percent of the assessed valuation of the taxable property within its boundaries according to the last ~~offical~~ *official* equalized county assessment roll.

SEC. 167. Section 7273 of the Financial Code is amended to read:

7273. Fixed interest railroad bonds meeting the requirements of subdivisions (a) and (b), bonds secured by a mortgage on jointly operated railroad facilities meeting the requirements of subdivision (c), and railroad equipment trust certificates meeting the requirements of subdivision (d), as follows:

(a) The railroad bonds are issued by or are assumed, guaranteed, or provision is made unconditionally for the payment of principal and interest on specified dates, by a solvent railroad company:

(1) ~~Which~~ *That* operates at least 500 miles of standard gauge road within the continental United States and ~~which~~ *that* has had average annual operating revenues of at least ten million dollars ($10,000,000) during the five years next preceding the investment.

(2) Whose average annual balance of income available for fixed charges for the last 15 years for which the necessary statistical data are available, when divided by an amount equal to its fixed charges for the last fiscal year, shall produce a quotient ~~which~~ *that* is at least 15 percent higher than the quotient obtained by dividing the average annual balance of income available for fixed charges of all class 1 railroads for the same ~~15 year~~ *15-year* period by an amount equal to the fixed charges of all class 1 railroads for the last year in the period.

(3) Whose average "balance of net income" (computed by deducting the sum of its fixed charges and contingent interest charges for the latest fiscal year from the average annual balance

available for fixed charges for the latest 15 years for which the necessary statistical data are available) when divided by its average annual railroad operating income for the same ~~15 year~~ *15-year* period, shall produce a quotient at least 15 percent greater than the quotient obtained by dividing the average balance of income of all class 1 railroads, computed in the same manner, by the average annual railway operating income of all class 1 railroads for the same ~~15 year~~ *15-year* period.

(4) Whose average balance of income available for fixed charges for the last three fiscal years preceding the investment ~~(or~~, *or* for ~~such~~ *the* lesser number of fiscal years ~~as~~ *that* may have elapsed since December 31, ~~1946)~~ *1946*, has not been less than one and one-half times its fixed charges for the last fiscal year.

(b) The railroad bonds are secured by any of the following:

(1) A mortgage ~~(either~~, *either* direct or ~~collateral) which~~ *collateral, that* shall be a first mortgage on not less than 75 percent of the mileage subject to the mortgage.

(2) A first mortgage on terminal properties comprising the company's principal freight or passenger terminal in a city of not less than 250,000 population according to the latest federal or state census.

(3) A refunding mortgage on not less than 75 percent of the railroad mileage owned or operated by the issuing company under which bonds may be issued for retirement or refunding of all debts secured by prior liens on all or any part of the property ~~(other~~, *other* than liens on ~~equipment)~~ *equipment*, subject to the mortgage ~~; provided, that~~ *if* the amount of debt senior to the refunding mortgage is not more than 50 percent of the sum of all senior debt and the refunding mortgage ~~,~~ or ~~that~~ *if* underlying mortgage bonds in an amount equal to at least 50 percent of the debt outstanding under the refunding mortgage are pledged as security under that refunding mortgage.

(4) A first mortgage on railroad property leased to and operated by the company ~~where~~ *if* the lease extends beyond the maturity date of the bonds and the company has guaranteed, assumed, or committed itself under the terms of the lease to pay principal and interest on the bonds.

(c) Bonds secured by a mortgage on jointly operated railroad facilities shall be secured by a first mortgage on a terminal, depot, tunnel, or bridge used by or leased to two or more

railroads ~~which~~ *that* have jointly and severally agreed unconditionally to pay the interest and principal payment, one of which railroads shall meet the requirements set forth in subdivision (a).

(d) Railroad equipment trust certificates shall be issued by a solvent class 1 railroad whose average balance of income available for fixed charges for the last three fiscal years ~~preceeding~~ *preceding* the investment ~~(or~~, *or* for ~~such~~ *the* lesser number of fiscal years ~~as~~ *that* may ~~be~~ *have* elapsed since December 31, ~~1946)~~ *1946,* shall be not less than one and one-half times its fixed charges for the last fiscal year. Those certificates shall be issued to provide funds for the construction or acquisition of new standard gauge railroad equipment made with the approval of the Interstate Commerce Commission and secured by an equipment trust, lease, conditional sales contract, or first lien on the equipment. The aggregate principal amount of the obligations shall not exceed 80 percent of the purchase price of the equipment and the certificates shall mature within 15 years of the date of issuance in equal annual, semiannual, or monthly installments, beginning not later than one year after the date of issuance.

(e) As used in this section, ~~the terms~~ "balance of income available for fixed charges," "fixed charges," "contingent interest," and "railway operating income" shall have the same meaning as in the accounting reports filed by common carriers by rail pursuant to regulations of the Interstate Commerce Commission, except that "balance of income available for payment of fixed charges" shall be computed before deduction of federal income of excess profits taxes, and "fixed charges" and "contingent interest" of the railroad shall be those charges existing as of the time the computation is made, excluding charges with respect to debt ~~which~~ *that* has been retired or will be retired within six months and for the payment of which funds have been or are contemporaneously being set aside in trust but including charges with respect to new debt issued or in the process of being issued.

SEC. 168. Section 7274 of the Financial Code is amended to read:

7274. Bonds and debentures of gas, electric, or gas and electric companies meeting the requirements of subdivision (a),

bonds and debentures of telephone companies meeting the requirements of subdivision (b), and the bonds and debentures of water companies meeting the requirements of subdivision (c), as follows:

(a) Bonds or debentures of gas, electric, or gas and electric companies shall be of an issue ~~which~~ *that* originally amounted to not less than one million dollars ($1,000,000) and, if bonds, be secured by a mortgage on substantially all of its physical property, and, if debentures, shall be issued by a company substantially all of whose physical property is free of mortgage and shall carry a covenant to be secured equally with any mortgage indebtedness, except a purchase money mortgage, subsequently issued, and both bonds and debentures shall be issued by a public utility corporation, which does all of the following:

(1) Derives more than 50 percent of its gross operating revenue from the business of supplying electricity, artificial gas, or natural gas or all or any of these services, and at least 80 percent of its gross operating revenue from all or any of the public utility businesses enumerated in this section.

(2) Has a gross operating revenue of not less than seven million five hundred thousand dollars ($7,500,000) for its most recent fiscal year.

(3) Has a funded debt not exceeding two-thirds of the value of its physical property as shown by the books of the corporation or by a statement of a certified public accountant issued within one year, which statement may be based upon the books of the corporation, less the amount of any reserves for depreciation, retirement, or amortization of ~~such~~ *the* physical property ~~(physical~~. *Physical* property of a corporation shall include the physical property of a subsidiary corporation if the corporation owns not less than 90 percent of the outstanding voting shares of the subsidiary ~~corporation).~~ *corporation.*

(4) Has had earnings, including earnings of subsidiaries mentioned in paragraph (3), available for interest payments, before deduction of state and federal taxes imposed on or measured by income or profits, during four of the five most recent fiscal years and during the most recent fiscal year equal to at ~~lease~~ *least* twice the existing annual interest charges on the

corporation's total funded debt during those respective fiscal years.

(b) Bonds or debentures of telephone companies shall be of an issue originally amounting to at least one million dollars ($1,000,000) and, if bonds, secured by a mortgage on substantially all of the physical property of the company, and, if debentures, be issued by a company substantially all of whose physical property is free of mortgage and shall carry a covenant to be secured equally with any mortgage indebtedness, except a purchase money mortgage, subsequently issued, and both bonds and debentures shall be issued by a company subject to the following:

(1) The company has during its last fiscal year had gross revenues of at least seven million five hundred thousand dollars ($7,500,000), more than 50 percent of which was derived from owned properties used in furnishing telephone and other communication services and at least 80 percent of its gross revenues from all or any of the public utility businesses enumerated in this section.

(2) The funded debt does not exceed two-thirds of the value of its physical property as shown by the books of the corporation or by a statement of a certified public accountant issued within one year, which statement may be based upon the books of the corporation, less the amount of any reserves shown on the statement for depreciation, retirement, or amortization as the physical property. Physical property of a corporation shall include the physical property of a subsidiary corporation if the corporation owns not less than 90 percent of the outstanding voting shares of the subsidiary corporation.

(3) For four of the five most recent fiscal years and for the last fiscal year has had earnings, including earnings of subsidiaries mentioned in paragraph (2), available for the payment of interest charges, before deduction of state and federal taxes imposed on or measured by income or profits, at least equal to twice the interest charges on the company's total funded debt during ~~such~~ *those* respective fiscal years.

(c) Water company bonds or debentures shall be of an issue originally amounting to at least one million dollars ($1,000,000) and, if bonds, secured by a first mortgage on the company's property, and, if debentures, issued by a company substantially

all of whose property is free of mortgage and carry a covenant to be secured equally with any mortgage indebtedness, except a purchase money mortgage, subsequently issued, and both bonds and debentures shall be issued by a company subject to the following:

(1) The company is the supplier of substantially all water for domestic use in a community or communities having a population of not less than 25,000.

(2) The funded debt of the company does not exceed two-thirds of the value of its physical property as shown by the published statement of the company for its next preceding fiscal period, less the amount of any reserves shown for depreciation, retirement, or amortization of ~~such~~ *the* physical property. Physical property of a corporation shall include the physical property of a subsidiary corporation if the corporation owns not less than 90 percent of the outstanding voting shares of the subsidiary corporation.

(3) For four out of the five most recent fiscal ~~year~~ *years* and for the most recent fiscal year has had earnings, including those of subsidiaries mentioned in paragraph (2), available for the payment of interest charges, before deduction of state and federal taxes imposed on or measured by income or profits, of at least one and one-half times the interest charges on the company's total funded debt during those respective fiscal years.

SEC. 169. Section 7509 of the Financial Code is amended to read:

7509. (a) *(1)* At the time of origination, a real estate loan may not exceed 100 percent of the market value of security property. An association shall, by vote of its board of directors, establish maximum ~~loan-to-value-ratios~~ *loan-to-value ratios* for loans made on the security of real estate, and the resolution adopting those ratios shall be included in the minutes of the directors' meeting. Home loans, as defined in Section 7504, made on the combined security of real estate and savings accounts may be made in excess of the maximum ~~loan-to-value-ratios~~ *loan-to-value ratios* adopted pursuant to this subdivision with the excess secured by the savings account.

(2) However, for loans ~~orginated~~ *originated* in excess of 90 percent of the initial appraised value of the security property, the savings account shall consist only of funds belonging to the

borrower, the borrower's family, or the borrower's employer, and the loans shall not exceed the appraised value of the real estate.

(b) With respect to home loans originated or refinanced in excess of 90 percent of the appraised value of the security property, that part of the unpaid balance that exceeds 80 percent of the property value shall be insured or guaranteed by a mortgage insurance company that the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer."

(c) With respect to all other loans on the security of real estate originated in excess of 90 percent of the appraised value of the security property, an association's board of directors shall approve each of these loans prior to its origination and that approval shall be recorded in the minutes of its meeting.

(d) An association shall not make a loan secured by unimproved real property if the loan-to-value ratio would exceed 80 percent of the appraised value of the unimproved real property securing the loan.

(e) In determining compliance with maximum loan-to-value-ratio limitations for real estate loans, at the time of making a loan, an association shall add together the unpaid amount, or in the case of a line-of-credit loan, the approved credit limit, of all recorded loans secured by prior mortgages, liens, or other encumbrances on the security property that would have priority over the association's lien, and shall not make ~~such a~~ *the* loan unless the total amount of those loans ~~(including~~, *including* the ~~one~~ *loan* to be made but excluding loans that will be paid off out of the proceeds of the new ~~loan)~~ *loan,* does not exceed the applicable maximum loan-to-value-ratio limitations prescribed in this subdivision. In determining the value of the real estate security, an association shall use the current appraised value of the security property, which may include any expected value of improvements to be financed.

(f) "Value" for a real estate loan means the market value of the real estate.

SEC. 170. Section 7600 of the Financial Code is amended to read:

7600. In the case of any investment made by an association in a real estate loan, in the event all or part of the ownership of the real estate security becomes vested in a person other than the

party or parties originally executing the security instruments~~,~~ and ~~provided~~ *if* there is not an agreement in writing to the contrary, an association may, without notice to the party or parties, deal with a ~~successsor~~ *successor* in interest to the mortgage and debt in the same manner as with the original party or parties, and may forbear to sue or may extend time for payment of or otherwise modify the terms of the debt, without discharging or in any way affecting the original liability of the party or parties or their debt.

SEC. 171. Section 12100 of the Financial Code is amended to read:

12100. This division does not apply to any of the following:

(a) ~~Persons~~ *Any person*, or ~~their~~ *his or her* authorized ~~agents~~ *agent*, doing business under license and authority of the Commissioner of Financial Institutions ~~of the State of California~~ under Division 1 (commencing with Section 99)~~,~~ or under any law of this state or of the United States relating to banks, trust companies, building or savings associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies ~~(as~~, *as* defined in Section 12402 of the Insurance ~~Code)~~ *Code*, escrow agents subject to Division 6 (commencing with Section 17000), or finance lenders subject to Division 9 (commencing with Section 22000).

(b) (1) Any person licensed under Chapter 14A (commencing with Section 1851) of Division 1 or any agent of ~~such~~ *the* person, when selling any traveler's check ~~(as~~, *as* defined in Section ~~1852)~~ *1852*, which is issued by ~~such~~ *the* person.

(2) Any person licensed under Division 16 (commencing with Section 33000) or any agent of the person, when selling any payment instrument ~~(as~~, *as* defined in Section ~~33059)~~ *33059*, which is issued by the person.

(c) The services of a person licensed to practice law in this state, when the person renders services in the course of his or her practice as an attorney-at-law, and the fees and disbursements of ~~such~~ *the* person, whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter~~; provided, these~~. *These* fees and disbursements shall not be shared, directly or indirectly, with the prorater or check seller.

(d) Any transaction in which money or other property is paid to a "joint control agent" for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned ~~or~~, member-controlled, or member-directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any ~~person licensed under Chapter 1 of~~ *agency or service subject to Title 2.91 (commencing with Section 1812.500) of* Part ~~6~~ *4* of Division ~~2~~ *3* of the ~~Labor~~ *Civil* Code, when ~~acting in any capacity for which he or she is licensed~~ *providing services* under that ~~part~~ *title*.

(g) Any person licensed under Part 1~~,~~ *(commencing with Section 10000) of* Division 4~~,~~ of the Business and Professions Code, when acting in any capacity for which he or she is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when the person renders services in ~~a~~ *the* course of his or her practice as a certified public accountant or a public accountant, and the fees and disbursements of the person, whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter~~; provided, these~~. *These* fees and disbursements shall not be shared, directly or indirectly, with the prorater or check seller.

(j) Any person licensed under Chapter 14 (commencing with Section 1800) of Division 1 or any agent of ~~such~~ *the* person, when selling any check or draft ~~which~~ *that* is drawn by the person and ~~which~~ is of the type described in paragraph (3) of subdivision (a) of Section 1800.5.

(k) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Commissioner of Financial Institutions ~~of the State of California~~ under Article 3 (commencing with Section 1750) of Chapter 13.5 of Division 1, or any agent of ~~such~~

the group, when selling any foreign currency traveler's check ~~(as~~, *as* defined in Section ~~1852)~~ *1852,* issued by ~~such~~ *the* group~~,~~ ~~provided that each~~. *Each* bank that is a member of the group is jointly and severally liable to pay ~~such~~ *the* foreign currency traveler's check.

(*l*) Any transaction of the type described in Section 1854.1.

SEC. 172. Section 14402 of the Financial Code is amended to read:

14402. Every credit union may purchase and hold, either individually or jointly with other credit unions or affiliated organizations, a lot and building to be employed principally for the transaction of business, and to provide for future expansion of the facilities of ~~such~~ *those* organizations. Any excess space ~~which~~ *that* is not occupied by the organizations ~~purhasing~~ *purchasing* and holding the building may be leased to the public. The lot and building may be sold~~,~~ if all the holders of the property join in its sale.

SEC. 173. Section 18062 of the Financial Code is amended to read:

18062. An industrial loan company shall not use any advertisement after its use has been disapproved by the commissioner and the industrial loan company has been notified in writing of the disapproval. Commencing July 1, 1990, the commissioner may require a company to obtain written or oral approval of any advertisement for investment or thrift certificates prior to publication thereof in order to avoid false, misleading, or deceptive ~~advertisting~~ *advertising*.

SEC. 174. Section 18415.3 of the Financial Code is amended to read:

18415.3. (a) Whenever the net worth of an industrial loan company, exclusive of its good will, is less than 90 percent of the aggregate sum of its outstanding investment certificates, exclusive of those hypothecated with the company issuing them, divided by the fraction ~~which~~ *that* is its investment certificates ratio permitted by the commissioner, the commissioner shall by written order direct the company to make good the alleged deficiency of ~~new~~ *net* worth. Pursuant to the commissioner's orders, the company's net worth shall be at least 100 percent of the aggregate sum of its outstanding investment certificates, exclusive of those hypothecated with the company issuing them,

divided by the fraction ~~which~~ *that* is its investment certificates ratio permitted by the commissioner.

(b) If the company fails to cure the alleged deficiency of net worth within the commissioner's specified time, not to exceed 120 days, the commissioner may take possession of the company's property and business. If the alleged deficiency is not cured within 120 days of the order, the commissioner shall take possession of the company's property and business.

SEC. 175. Section 21050 of the Financial Code is amended to read:

21050. This division does not apply to any of the following:

(a) Any corporation organized for the purpose of securing credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923."

(b) Any nonprofit cooperative corporation or association with or without capital stock, organized or existing pursuant to ~~the provisions of~~ Chapter ~~4, Division 6~~ *1 (commencing with Section 54001) of Division 20* of the *Food and* Agricultural Code.

(c) Any person, corporation, association, syndicate, joint stock company, or partnership, engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, and bee products on a cooperative nonprofit basis.

SEC. 176. Section 22304 of the Financial Code is amended to read:

22304. As an alternative to the charges authorized by Section 22303, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made, as established by the Federal Reserve Bank of San Francisco, on advances to member banks under Sections 13 and 13a of the Federal Reserve Act, as now in effect or hereafter from time to time amended, or if there is no ~~such~~ single determinable rate for advances, the closest counterpart of this rate as shall be determined by the Commissioner of Financial ~~Insititutions of the State of California~~

Institutions. Charges shall be calculated on the unpaid principal balance.

(c) This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more as determined in accordance with Section 22251.

SEC. 177. Section 854 of the Fish and Game Code is amended to read:

854. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the ~~positon~~ *position* of fish and game warden of the ~~California~~ Department of Fish and Game shall be 18 years. Any examination for the position of warden shall require a demonstration of the physical ability to effectively carry out the duties and responsibilities of the position in a manner ~~which~~ *that* would not inordinately endanger the health or safety of any warden or the health and safety of others.

SEC. 178. Section 1122 of the Fish and Game Code is amended to read:

1122. Any claim for damages arising against the state under Section 1121 shall be presented to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with Section 905.2 of the Government Code, and if not covered by insurance ~~as herein~~ provided *pursuant to Section 1121, the claim* shall be payable only out of funds appropriated by the Legislature for ~~such purposes~~ *that purpose*. If the state elects to insure its liability under Section 1121, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* may automatically deny ~~any such~~ *the* claim.

SEC. 179. Section 2120 of the Fish and Game Code is amended to read:

2120. (a) The commission, in cooperation with the ~~State~~ Department of Food and Agriculture, shall ~~promulgate~~ *adopt* regulations governing ~~(a)~~ *both (1)* the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals ~~which~~ *that* will be or ~~which~~ *that* have been imported into this state pursuant to ~~the provisions of~~ this chapter, and ~~(b)~~ *(2)* the possession of all other wild animals. The regulations shall be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the

existence at large of ~~any such~~ *these* wild animals, and to provide for the welfare of wild animals.

(b) The regulations shall also include criteria for all of the following:

(1) ~~Receiving~~ *The receiving*, processing, and issuing of a permit and conducting inspections.

(2) Contracting out inspection activities.

(3) Responding to public reports and complaints.

(4) ~~Notification~~ *The notification* of the revocation, termination, or denial of permits, and related appeals.

(5) The method by which the department determines that the breeding of wild animals pursuant to a single event breeding permit for exhibitor ~~and~~ *or* a breeding permit is necessary and will not result in unneeded or uncared for animals, and the means by which the criteria will be implemented and enforced.

(6) How a responding agency will respond to an escape of a wild animal. This shall include, but not be limited to, the establishment of guidelines for the safe recapture of the wild animal and procedures outlining when lethal force would be used to recapture the wild animal.

(c) These regulations shall be developed and adopted by the commission~~,~~ on or before January 1, 2007.

SEC. 180. Section 2125 of the Fish and Game Code is amended to read:

2125. (a) In addition to any other penalty provided by law, any person who violates this chapter or any regulations implementing this chapter, is subject to a civil penalty of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation. Except as otherwise provided, any violation of this chapter or of any regulations implementing this chapter is a misdemeanor punishable by imprisonment in ~~the~~ *a* county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000).

(b) The Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of this article occurs, may bring a civil action to recover the civil penalty in subdivision (a) and the costs of seizing and holding the animal listed in Section 2118, except to the extent that those costs have already been collected as provided by subdivision (d). The civil action shall be brought in the county in

which the violation occurs and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 13001.

(c) In an action brought under this section, in addition to the penalty specified in subdivision (a), the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness' fees may also be recovered and those amounts shall be credited to the same operating funds as ~~that~~ *those* from which the expenditures for those purposes were derived.

(d) (1) If an animal is confiscated because the animal was kept in contravention of this chapter or any implementing regulations, the person claiming the animal shall pay to the department or the new custodian of the animal an amount sufficient to cover all reasonable expenses expected to be incurred in caring for and providing for the animal for at least 30 days, including, but not limited to, the estimated cost of food, medical care, and housing.

(2) If the person claiming the animal fails to comply with the terms of his or her permit and to regain possession of the animal by the expiration of the first 30-day period, the department may euthanize *the animal* or place the animal with an appropriate wild animal facility at the end of the 30 days, unless the person claiming the animal pays all reasonable costs of caring for the animal for a second 30-day period before the expiration of the first 30-day period. If the permittee is still not in compliance with the terms of the permit at the end of the second 30-day period, the department may euthanize the animal or place the animal in an appropriate wild animal facility.

(3) The amount of the payments described in paragraphs (1) and (2) ~~of this subdivision~~ shall be determined by the department, and shall be based on the current reasonable costs to feed, provide medical care for, and house the animal. If the person claiming the animal complies with the terms of his or her permit and regains possession of the animal, any unused portion of the payments required pursuant to paragraphs (1) and (2) ~~of this subdivision~~ shall be returned to the person claiming the animal no later than 90 days after the date on which the person regains possession of the animal.

SEC. 181. Section 2127 of the Fish and Game Code is amended to read:

2127. (a) The department may reimburse eligible local entities, pursuant to a memorandum of understanding entered into pursuant to this section, for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118~~, by any person~~.

(b) The department may enter into ~~memorandums~~ *memoranda* of understanding with eligible local entities for the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated ~~as such~~ pursuant to Section 2118, or a cat specified in Section 3005.9.

(c) The Fish and Game Commission shall adopt regulations that establish specific criteria an eligible local entity shall meet in order to qualify as an eligible local entity.

(d) For ~~purpose~~ *the purposes* of this division, "eligible local entity" means a county, local animal control officer, local humane society official, ~~an~~ educational institution, or trained private individual that enters into a memorandum of understanding with the department pursuant to this section.

SEC. 182. Section 2150.4 of the Fish and Game Code is amended to read:

2150.4. (a) Consistent with Section 3005.91, the department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department shall collect an inspection fee, in an amount determined by the department pursuant to Section 2150.2.

(c) No later than January 1, 2007, the department, in cooperation with the committee created pursuant to Section 2150.3, shall develop, implement, and enter into memorandums

of understanding with eligible local entities if the department elects not to inspect every wild animal facility pursuant to subdivisions (a) and (b). Eligible local entities shall meet the criteria established in regulations adopted pursuant to subdivision (b) of Section ~~2127~~ *2157*.

SEC. 183. Section 2765 of the Fish and Game Code is amended to read:

2765. The California Water Commission, in any recommendation it may make to the Congress of the United States on funding for water projects, shall include recommendations for studies, programs, and facilities necessary to correct fish and wildlife problems ~~cause~~ *caused*, fully or partially, by federal water facilities and operation, including, but not limited to, all of the following:

(a) The Red Bluff Dam.

(b) The Trinity and Lewiston Dams.

(c) The facilities necessary to protect wildlife areas in the Suisun Marsh and the Sacramento-San Joaquin Delta from adverse water quality effects caused by the federal Central Valley Project.

(d) The Kesterson Reservoir and the San Luis Drain.

SEC. 184. Section 4190 of the Fish and Game Code is amended to read:

4190. The department shall tag, brand, or otherwise identify in a persistent and distinctive manner *any* large depredatory mammal relocated by, or *relocated* with the approval of, the department for game management purposes.

SEC. 185. Section 5653 of the Fish and Game Code is amended to read:

5653. (a) The use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9. Before any person uses any vacuum or suction dredge equipment in any river, stream, or lake of this state, that person shall submit an application for a permit for a vacuum or suction dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

(b) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges that may be used, and the time of year when those dredges may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time that is not authorized by the permit, or if any person conducts the operation without securing the permit, ~~the~~ *that* person is guilty of a misdemeanor.

(c) The department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars ($25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars ($130), as adjusted under Section 713, when the department deems *that* an onsite investigation is necessary. In the case of a nonresident, the base fee shall be one hundred dollars ($100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars ($220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges.

SEC. 186. Section 8277 of the Fish and Game Code is amended to read:

8277. *(a)* The director may extend the ~~dungeness~~ *Dungeness* crab season in any district or part thereof.

(b) Before extending the *Dungeness crab* season, the director shall consider written findings of the department regarding the state of the ~~dungeness~~ *Dungeness* crab resource in the district, or part thereof, which consider, but are not limited to, population and maturity. The director may extend the season only if the written findings do not conclude that the extension will damage the ~~dungeness~~ *Dungeness* crab resource.

(c) The director shall not extend the ~~dungeness~~ *Dungeness* crab season past August 31 in a district, or part thereof, north of the southern boundary of Mendocino County or past July 31 in a district, or part thereof, south of ~~Mendicino~~ *Mendocino* County. The director shall order closure of the season at any time during the extension period if the director determines that further fishing will damage the ~~dungeness~~ *Dungeness* crab resource.

SEC. 187. Section 8278 of the Fish and Game Code is amended to read:

8278. *(a)* Except as otherwise provided, no ~~dungeness~~ *Dungeness* crab less than six and one-quarter (6¼) inches in breadth, and no female ~~dungeness~~ *Dungeness* crab, may be taken, possessed, bought, or sold, except that not more than 1 percent in number of any load or lot of ~~dungeness~~ *Dungeness* crabs may be less than six and one-quarter (6¼) inches in breadth but not less than five and three-quarters (5¾) inches in breadth.

(b) Dungeness crab shall be measured by the shortest distance through the body from edge of shell to edge of shell directly from front of points (lateral spines).

SEC. 188. Section 8494 of the Fish and Game Code is amended to read:

8494. (a) Commencing April 1, 2006, any vessel using bottom trawl gear in state-managed halibut fisheries, as described in subdivision (a) of Section 8841, shall possess a valid California halibut bottom trawl permit that has not been suspended or revoked and that is issued by the department authorizing the use of trawl gear by that vessel for the take of California halibut.

(b) A California halibut bottom trawl vessel permit shall be issued annually, commencing with the 2006 permit year. Commencing with the 2007–08 season, in order to be eligible for that permit, an applicant shall have been issued a California halibut bottom trawl vessel permit in the immediately preceding permit year.

(c) The department shall not issue a California halibut bottom trawl vessel permit pursuant to this section for use in the California halibut fishery unless that vessel has landed a minimum of 200 pounds of California halibut and reported that landing on fish landing receipts as being caught with bottom trawl gear in at least one of the following:

(1) At least two of the calendar years 1995 to 2003, inclusive.

(2) At least one of the calendar years 1995 to 2003, inclusive, and from January 1, 2004, to February 19, 2004, inclusive.

(d) Permits issued pursuant *to* this section may be transferred only if at least one of the following occur:

(1) The commission adopts a restricted access program for the fishery that is consistent with the commission's policies regarding restricted access to commercial fisheries.

(2) Prior to the implementation of a restricted access program, the permit is transferred to another vessel owned by the same permitholder of equal or less capacity, as determined by the department, and if the originally permitted vessel was lost, stolen, destroyed, or suffered a major irreparable mechanical breakdown. The department may not issue a permit for a replacement vessel if the department determines that the originally permitted vessel was fraudulently reported as lost, stolen, destroyed, or damaged. Only the permitholder at the time of the loss, theft, destruction, or irreparable mechanical breakdown of a vessel may apply to transfer the vessel permit. Evidence that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard, or any other law enforcement agency or fire department that conducted an investigation of the loss.

(3) Prior to the implementation of a halibut trawl restricted access program, the commission may consider requests from a vessel permitholder or his or her conservator or estate representative to transfer a permit with the vessel if both of the following conditions are met:

(A) The permitholder has died, is permanently disabled, or the permitholder is at least 65 years of age and has decided to retire from commercial fishing.

(B) California halibut landings contributed significantly to the record and economic income derived from the vessel, as determined by regulations adopted by the commission. The commission may request information that it determines is reasonably necessary from the permitholder or his or her heirs or estate for the purpose of verifying statements in the request prior to authorizing the transfer of the permit.

(e) The commission shall establish California halibut bottom trawl vessel permit fees based on the recommendations of the

department and utilizing the guidelines outlined in subdivision (b) of Section 711 to cover the costs of administering this section. Prior to the adoption of a restricted access program pursuant to subdivision (d), fees may not exceed one thousand dollars ($1,000) per permit.

(f) Individuals holding a federal groundfish trawl permit may retain and land up to 150 pounds of California halibut per trip without a California halibut trawl permit in accordance with federal and state regulations, including, but not limited to, regulations developed under a halibut fishery management plan.

(g) This section shall become inoperative upon the adoption by the commission of a halibut fishery management plan in accordance with the requirements of Part 1.7 (commencing with Section 7050).

(h) The commission may adopt regulations to implement this section.

SEC. 189. Section 8495 of the Fish and Game Code is amended to read:

8495. (a) The following area is designated as the California halibut trawl grounds:

The ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu.

(b) Notwithstanding ~~the provisions of~~ subdivision (a), the use of trawl gear for the take of fish is prohibited in the following areas of the California halibut trawl grounds:

(1) Around Point Arguello. The area from a line extending from Point Arguello true west (270°) and out three miles, to a line extending from Rocky Point true south (180°) and out three miles.

(2) Around Point Conception. From a point on land approximately one-half mile north of Point Conception at latitude 34° 27.5′ extending seaward true west (270°) from one to three miles, to a point on land approximately ½ mile east of Point Conception at longitude 120° 27.5′ extending seaward true south (180°) from one to three miles.

(3) In the Hueneme Canyon in that portion demarked by the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 and from one mile to the three mile limit of state waters.

(4) In Mugu Canyon, from Laguna ~~point~~ *Point*, a line extending true south (180°) and out three miles, to Point Mugu, a line extending true south (180°) and from one to three miles.

(c) (1) Notwithstanding ~~the provisions of~~ subdivision (a), commencing April 1, 2008, the following areas in the California halibut trawl grounds shall be closed to trawling, unless the commission finds that a bottom trawl fishery for halibut minimizes bycatch, is likely not damaging sea floor habitat, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitats:

(A) The ocean waters lying between one and three nautical miles from the mainland shore from a point east of a line extending seaward true south (180°) from a point on land approximately ½ mile east of Point Conception at longitude 120° 27.5´ to a line extending due south from Gaviota.

(B) The ocean waters lying between one and two nautical miles from the mainland shore lying east of a line extending due south from Santa Barbara Point (180°) and west of a line extending due south from Pitas Point (180°).

(C) Except as provided in subdivision (b), the ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello to a line extending seaward true south (180°) from a point on land approximately ½ mile east of Point Conception at longitude 120° 27.5´, and from the western border of the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 in Hueneme Canyon running south and east to a line running due south (180° true) from Point Mugu.

(2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts.

(d) Commencing January 1, 2008, the commission shall review information every three years from the federal groundfish observer program and other available research and monitoring information it determines relevant, and shall close any areas in the California halibut trawl grounds where it finds that the use of trawl gear does not minimize bycatch, is likely damaging sea

floor habitat, is adversely affecting ecosystem health, or impedes reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

(e) Notwithstanding any other provision of law, the commission shall determine the size, weight, and configuration of all parts of the trawl gear, including, but not limited to, net, mesh, doors, appurtenances, and towing equipment as it determines is necessary to ensure trawl gear is used in a sustainable manner within the California halibut trawl grounds.

SEC. 190. Section 8610.7 of the Fish and Game Code is amended to read:

8610.7. (a) Commencing on July 1, 1993, there shall be paid to any person who submitted the form required by Section 7 of Article X B of the California Constitution within the 90-day period specified in subdivision (a) of that section, holds a permit issued pursuant to Section 5 of Article X B, who operates in the zone established pursuant to that article, who surrenders that permit to the department between July 1, 1993, and January 1, 1994, inclusive, and who agrees to permanently discontinue fishing with gill and trammel nets within the zone, a one-time compensation consisting of the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 within the zone during the years 1983 to 1987, inclusive. The department shall determine the amount of compensation to be paid by reviewing logs and landing receipts submitted to the department.

(b) Any person who did not submit the form required by Section 7 of Article X B of the California Constitution within the 90-day period specified in subdivision (a) of that section, or whose claim to compensation cannot be verified, shall not be compensated.

(c) Any person who is denied compensation by the department, as a result of the department's failure to verify landings, may appeal that decision to the commission.

(d) The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(e) Notwithstanding any other provision of law, any legal action or proceeding to challenge the validity of subdivision (b) of Section 3, or of Section 7, of Article X B of the California Constitution shall be commenced on or before April 1, 1993. In all actions brought to challenge the validity of subdivision (b) of Section 3, or of Section 7, of Article X B of the California Constitution, including the hearing of ~~any such~~ *the* action on appeal from the decision of a lower court, all courts where those actions are filed or pending shall give preference to those actions over all other civil actions filed or pending in that court, with respect to setting the action for trial or hearing, and in trying or hearing the matter, to the end that all ~~such~~ *of these* actions shall be heard and determined as expeditiously as possible.

(f) If subdivision (b) of Section 3, or Section 7, of Article X B of the California Constitution is held invalid, any compensation paid to a person pursuant to this section shall be repaid to the state. No person shall be issued any permit or license pursuant to this article until repayment has been made.

SEC. 191. Section 8615 of the Fish and Game Code is amended to read:

8615. (a) (1) Within the first six months of operation pursuant to an experimental permit and after a reasonable and concerted effort to utilize a new type of commercial fishing gear, the permittee may request that the experimental permit be terminated if it is economically infeasible to harvest the target species or *if* the alternative gear is impractical, inefficient, or ineffective within the fishery or regional area selected. The permittee shall submit copies of all landing receipts, a financial statement setting forth the expenses and any revenue generated by the operation of the alternative fishing gear, and a brief summary from any observers, monitors, and employees regarding the operation of the alternative fishing gear to the department. The department shall review the permittee's submitted material.

(2) If the submitted material supports the claim that the new type of commercial fishing gear utilized by the permittee was

either inefficient, impractical, or ineffective, or that it was not economically feasible for the permittee to harvest the target species, the department shall terminate the experimental permit and submit its findings to the State Coastal Conservancy. Upon receiving the department's report, the State Coastal Conservancy may terminate the permittee's loan. If the permittee returns the collateral fishing gear to the department, the State Coastal Conservancy shall reimburse the permittee from the loan fund for the principal amount of the loan repaid by the permittee. The department shall take possession of the fishing gear for the State Coastal Conservancy, which may resell the gear as set forth in subdivision ~~(b)~~ *(a)* of Section ~~8615~~ *8614*.

(3) If the information does not support the claim made by the permittee, the department may still terminate the experimental permit. The State Coastal Conservancy may terminate the remaining balance on the loan if the permittee returns the collateral fishing gear to the department, but the State Coastal Conservancy shall not reimburse the permittee for previous loan payments.

(b) After six months of operation pursuant to an experimental permit, any request to terminate the permit for the reasons set forth in subdivision (a) shall include, in addition to the information required by paragraph (1) of subdivision (a), an ~~explanantion~~ *explanation* of the changed circumstances or reasons that cause the new type of gear to become inefficient, impractical, or ineffective or economically infeasible to harvest the target species after the initial six-month operating period. The department shall review the request and make its recommendation to the State Coastal Conservancy following the procedures set forth in subdivision (a). If the department terminates the experimental gear permit, the State Coastal Conservancy may terminate the remaining balance on the loan if the permittee returns the collateral fishing gear to the department, but it shall not reimburse the permittee for any loan payments received. The department shall take possession of the alternative fishing gear for the State Coastal Conservancy, which may resell the gear as set forth in subdivision ~~(b)~~ *(a)* of Section ~~8615~~ *8614*.

SEC. 192. Section 8841 of the Fish and Game Code is amended to read:

8841. (a) The commission is hereby granted authority over all state-managed bottom trawl fisheries not managed under a federal fishery management plan pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7 (commencing with Section 7050), to ensure that resources are sustainably managed, to protect the health of ecosystems, and to provide for an orderly transition to sustainable gear types in situations where bottom trawling may not be compatible with these goals.

(b) The commission is hereby granted authority to manage all of the following fisheries in a manner that is consistent with ~~the requirements of~~ this section and Part 1.7 (commencing with Section 7050):

(1) California halibut.

(2) Sea cucumber.

(3) Ridge-back, spot, and golden prawn.

(4) Pink shrimp.

(c) The commission is also granted authority over other types of gear targeting the same species as the bottom trawl fisheries referenced in subdivision (a) to manage in a manner that is consistent with the requirements of Part 1.7 (commencing with Section 7050).

(d) Every commercial bottom trawl vessel issued a state permit is subject to the requirements and policies of the federal groundfish observer program (50 C.F.R. 660.360).

(e) The commission may only authorize additional fishing areas for bottom trawls after it determines, based on the best available scientific information, that bottom trawling in those areas is sustainable, does not harm bottom habitat, and does not unreasonably conflict with other users.

(f) It is unlawful to use roller gear more than eight inches in diameter.

(g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or pink shrimp, unless an approved bycatch reduction device is used with each net. On or before April 1, 2006, the commission shall approve one or more bycatch reduction devices for use in the bottom trawl fishery. For purposes of this subdivision, a rigid grate fish excluder device is the approved type of bycatch reduction device unless the

commission, the Pacific Marine Fishery Management Council, or the National Marine Fisheries Service determines that a different type of fish excluder device has an equal or greater effectiveness at reducing bycatch. If the commission does not approve a bycatch reduction device prior to April 1, 2006, then a device that is approved by the Pacific Marine Fishery Management Council or the National Marine Fisheries Service shall be deemed approved by the commission.

(h) Except as provided in Section 8495 or 8842, it is unlawful to engage in bottom trawling in ocean waters of the state.

(i) This section does not apply to the use of trawl nets pursuant to a scientific research permit.

(j) The commission shall facilitate the conversion of bottom trawlers to gear that is more sustainable if the commission determines that conversion will not contribute to overcapacity or overfishing. The commission may participate in, and encourage programs that support, conversion to low-impact gear or capacity reduction by trawl fleets. The department may not issue new permits to bottom trawlers to replace those retired through a conversion program.

(k) As soon as practicable, but not later than May 1, 2005, the commission and the department shall submit to the Pacific Fishery Management Council and the National Marine Fisheries Service a request for federal management measures for the pink shrimp fishery that the commission and the department determine are needed to reduce bycatch or protect habitat, to account for uncertainty, or to otherwise ensure consistency with federal groundfish management.

(*l*) No vessel may utilize bottom trawling gear without a state or federal permit.

SEC. 193. Section 9023 of the Fish and Game Code is amended to read:

9023. *(a)* Traps may be used ~~throughout~~ *throughout* the year to take carp in any district under the ~~following~~ restrictions~~:~~ *set forth in subdivision (b).*

(b) Traps shall not exceed six feet in greatest dimension. They shall be made of cotton or nylon twine. Meshes shall not be less than three and one-half inches in length, except that fyke and bait bags may be any size mesh. Traps shall have only a single vertical fyke opening at the top of the trap. They shall be baited

only with grain or grain products. Fish other than carp taken in traps subject to this section shall be immediately returned to the water.

SEC. 194. Section 13007 of the Fish and Game Code is amended to read:

13007. (a) Notwithstanding Section 13001 and paragraph (1) of subdivision (a) of Section 13005, commencing July 1, 2006, 33 ⅓ percent of all sport fishing license fees~~, except license fees collected pursuant to Section 7149.8~~ collected pursuant to Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6, *except license fees collected pursuant to Section 7149.8,* shall be deposited into the Hatchery and Inland Fisheries Fund, which is hereby established in the State Treasury. Moneys in the fund may be expended, upon appropriation by the Legislature, to support programs of the Department of Fish and Game related to the management, maintenance, and capital improvement of California's fish hatcheries, the Heritage and Wild Trout Program, and enforcement activities related thereto, and to support other activities eligible to be funded from revenue generated by sport fishing license fees.

(b) The sport fishing license fees collected and subject to appropriation pursuant to subdivision (a) shall be used for the following purposes:

(1) For the department's attainment of the following production goals for state hatcheries, based on the sales of the following types of sport fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day; 1-day; and reduced fee.

(A) By July 1, 2007, a minimum of 2.25 pounds of released trout per sport fishing license sold in 2006, 1.75 pounds of which must be of catchable size or larger.

(B) By July 1, 2008, a minimum of 2.5 pounds of released trout per sport fishing license sold in 2007, 2.0 pounds of which must be of catchable size or larger.

(C) By July 1, 2009, and thereafter, a minimum of 2.75 pounds of released trout per sport fishing license sold in 2008, 2.25 pounds of which must be of catchable size or larger.

(D) The department shall attain these goals in compliance with Fish and Game Commission trout policies concerning catchable-sized trout stocking.

(2) To the Heritage and Wild Trout Program, two million dollars ($2,000,000), which shall be used for permanent positions and seasonal aides in each region of the state as necessary, and other activities necessary to the program.

(A) The funds allocated pursuant to this paragraph shall be used to fund seven new positions for the Heritage and Wild Trout Program.

(B) In addition to the seven new positions specified in subparagraph (A), the department may hire seasonal aides in each region of the state to assist with the operations of the Heritage and Wild Trout Program.

(3) The department shall, by July 1, 2011, ensure that 25 percent of the fish produced by state fish hatcheries are used for the purpose of initiating and managing the restoration of naturally indigenous stocks of trout to their original California source watersheds. This paragraph shall not be construed to prohibit the department from using surplus fish in waters outside of their original California source watersheds. All trout restored pursuant to this paragraph shall be native California trout, as defined in Section 7261. The department shall attain the 25 percent restoration goal of this paragraph according to the following schedule:

(A) By July 1, 2009, 15 percent and at least ~~4~~ *four* species, not including the coastal rainbow trout/steelhead.

(B) By July 1, 2010, 20 percent and at least ~~4~~ *four* species, not including the coastal rainbow trout/steelhead.

(C) By July 1, 2011, and thereafter, 25 percent and at least ~~5~~ *five* species, not including the coastal rainbow trout/steelhead.

(4) The department may hire additional staff for state fish hatcheries, in order to comply with ~~the requirements of~~ this subdivision.

(c) The department may allocate any funds under this section, not necessary to maintain the minimums specified in subparagraphs (1) and (3) of subdivision (b), and after the expenditure in subparagraph (2) of subdivision (b), to the Fish and Game Preservation Fund. The department may utilize federal funds to meet the minimums specified in this subdivision.

(d) A portion of the moneys subject to appropriation pursuant to subdivision (a) may be used for the purpose of obtaining scientifically valid genetic determinations of California native

trout stocks, consistent with Theme 1 in the executive summary of the department's Strategic Plan for Trout Management, published November 2003.

(e) The department, by July 1, 2008, and biennially thereafter, shall report back to the fiscal and policy committees in the Legislature on the implementation of these provisions.

SEC. 195. Section 15512 of the Fish and Game Code is amended to read:

15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department under subdivision (b) if the claim is submitted pursuant to Section 15513. If the replacement value is not settled between the owner and the department, the replacement value shall be determined by an appraiser appointed by the director and an appraiser appointed by the owner. Appraiser's fees shall be paid by the appointing party. Disputes between these two appraisers shall be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) If the department provides replacement stock to an aquaculturist whose plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount to be paid to the aquaculturist pursuant to this section shall be reduced by the value of the replacement stock, as determined by the department.

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* pursuant to Section 15513.

SEC. 196. Section 3955 of the Food and Agricultural Code is amended to read:

3955. Claims against an association shall be presented to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940)~~,~~ *of* Division 3.6~~,~~ *of* Title 1 of the Government Code.

SEC. 197. Section 4054 of the Food and Agricultural Code is amended to read:

4054. *(a)* If the board of an association, by resolution adopted by vote of two-thirds of all its members, finds and determines that the public interest and necessity require the acquisition of any building or improvement ~~which~~ *that* is situated on property that is owned by the association, in trust or otherwise, or of any outstanding rights to ~~such~~ *that* property, with the approval of the department and the association, ~~such~~ *the* building, improvement, or outstanding rights may be acquired by eminent domain pursuant to the Property Acquisition Law~~, Part~~ *(Part* 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government ~~Code~~ *Code)*.

(b) The use by the association of its property shall be considered a more necessary public use than the use of the property by any grantee, lessee, or licensee for the purposes ~~which~~ *that* are specified in Section 4051 ~~of this chapter~~.

(c) Notwithstanding ~~any provision of Sections 14256 and 14792, or of~~ Article 5 (commencing with Section 25450) of Chapter 5 of Division 2 of Title 3~~,~~ of the Government Code, *or Sections 10108 and 10308 of the Public Contract Code,* the board of an association~~,~~ or governing board of a county fair, by resolution adopted by vote of two-thirds of all its members, may purchase materials and lease equipment for not in excess of twenty thousand dollars ($20,000) when ~~such~~ *the* purchase or lease is made in conjunction with donated labor construction improvements on the grounds of the association or the county fairgrounds, respectively.

SEC. 198. Section 5774.5 of the Food and Agricultural Code is amended to read:

5774.5. ~~(a)~~ In addition to any other notice requirements of this article, if the secretary determines that it may become necessary to use aerial application of a pesticide in a pest eradication program over an urban area, the secretary shall notify, as soon as it is feasible, the city and county in that affected area of the possibility of an aerial application.

SEC. 199. Section 13127.92 of the Food and Agricultural Code is amended to read:

13127.92. (a) Extensions of time granted pursuant to ~~Section~~ *Sections* 13127.3, 13127.31, and 13127.5 shall only be for the time necessary to complete the mandatory health effects studies.

(b) Mandatory health effects studies shall be completed in accordance with the following timetable:

(1) Forty-eight months for oncogenicity, chronic feeding, and reproduction studies.

(2) Twenty-four months for teratogenicity and neurotoxicity studies.

(3) Twelve months for mutagenicity studies.

(c) A deferral of suspension of registration issued pursuant to Section 13127.5 shall be subject to an annual review by the director and shall be limited to the time necessary to ~~compete~~ *complete* the required studies, and shall in no case exceed four years with the time tolling from the date that the registrant petitioned for an extension.

(d) Any extension of time for submission of the mandatory health effects studies granted pursuant to Section 13127.5 shall be canceled by June 15, 1993, and the registration suspended for the affected ingredient, if the registrant fails to initiate the required studies by June 15, 1992.

SEC. 200. Section 14978.2 of the Food and Agricultural Code is amended to read:

14978.2. The board may establish the Commercial Feed Inspection Committee as an entity to administer this chapter. The committee shall consist of eight persons appointed by the board who shall be licensed under this chapter. The committee may, with the concurrence of the director, appoint one additional member to the committee, who shall be a public member. The public member shall be a citizen and resident of California who is not subject to the licensing requirements of this chapter, and who has no financial interest in any person licensed under this chapter.

(b) Each member shall have an alternate member appointed in the same manner as the member, who shall serve in the absence of the member for whom they are designated as alternate and who shall have all the duties and exercise the full rights and privileges of members.

(c) The committee may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as

it deems necessary. The officers shall have the powers and duties delegated to them by the committee.

(d) The members and alternate members, when acting as members, shall serve without compensation but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties in accordance with the rules of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

(e) A quorum of the committee shall be five members. A vote of the majority of the members present at a meeting at which there is a quorum shall constitute the act of the committee.

(f) No member or alternate member, or any employee or agent thereof, shall be personally liable for the actions of the committee~~, and no such person shall be~~ *or* responsible individually in any way for errors in judgment, mistakes, or other acts, either by commission or omission, except for his or her own individual acts of dishonesty or crime.

SEC. 201. Section 19314 of the Food and Agricultural Code is amended to read:

19314. The department may suspend or revoke a registration certificate, at any time, *if* it finds any of the following has occurred:

(a) The registrant has sold or offered for sale to an unlicensed person, any inedible kitchen grease.

(b) The registrant has stolen, misappropriated, contaminated, or damaged inedible kitchen grease or containers thereof.

(c) The registrant has violated ~~any provision of~~ this article or any regulations adopted to implement this article.

(d) The registrant has taken possession of inedible kitchen grease from an unregistered transporter or has knowingly taken possession of inedible kitchen grease that has been stolen.

(e) The registrant has been found to have engaged in, or aided and abetted another person or entity in the commission of, any violation of a statute, regulation, or order~~,~~ relating to the transportation or disposal of inedible kitchen grease, including a violation of the federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Chapter 1.5 (commencing with Section 13020) of Division 7 of the Water Code), Section 5650 of the Fish and Game Code,

commercial vehicle weight limits, or commercial vehicle hours of service.

(f) For purposes of this section, "registrant" includes any business entity, trustee, officer, director, partner, person, or other entity holding more than 5 percent equity, ownership, or debt liability in the registered entity engaged in the transportation of inedible kitchen grease.

(g) (1) The registrant may appeal the suspension or revocation decision of the department.

(2) The department shall establish procedures for the appeals process, to include a noticed hearing.

(3) The department may reverse a suspension or revocation upon a finding of good cause to do so.

SEC. 202. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be stamped with the name of the county and the year of issue.

(b) The board of supervisors or animal control department may authorize veterinarians to issue the licenses to owners of dogs ~~that~~ *who* make application.

(c) The licenses shall be issued for a period of not to exceed two years.

(d) In addition to the authority provided in subdivisions (a), (b), and (c), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated against rabies. The person to whom the license is to be issued pursuant to this subdivision may choose a license period as established by the board of supervisors of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

SEC. 203. Section 36805 of the Food and Agricultural Code is amended to read:

36805. *(a)* Ice cream, frozen ~~diary~~ *dairy* dessert, frozen dessert, sherbet, or quiescently frozen confections when sold in package form shall be labeled with the name, address, and ~~zip~~

~~code~~ *ZIP Code* of the manufacturer, the wholesale distributor, or the retailer.

~~When~~

(b) If the name and address is not that of the original milk products processing plant, ~~then~~ there shall be stamped, printed, or embossed upon the package, in a manner acceptable to the director, the plant number of the manufacturer or packer. ~~Any such~~ *This* plant identification shall be consistent with, and not ~~be~~ more restrictive than, the National Uniform Coding System for packaging identification of milk and milk products processing plants.

SEC. 204. Section 39901 of the Food and Agricultural Code is amended to read:

39901. *(a)* Dairy beverages are milk and dairy food beverages resembling milk or milk products. However, dairy beverages do not conform to the compositional standards for milk or milk products as established in this code or Title 21 of the Code of Federal Regulations because they contain safe and suitable ingredients or combinations of ingredients not specified in those standards. Dairy beverages are products intended for consumption as a beverage. Milk or the components ~~or~~ *of* milk shall comprise at least 15 percent of the product on a dry matter basis or at least 2 percent on a total weight basis.

(b) For purposes of establishing compliance with the minimum dairy ingredient criteria, dairy ingredients shall include all products, components, and derivatives of milk, including, but not limited to, whey and whey products and caseinates specified in subdivision (c) of Section 135.110 of Title 21 of the Code of Federal Regulations, but excluding added lactose.

SEC. 205. Section 42684 of the Food and Agricultural Code is amended to read:

42684. (a) It is hereby declared that the establishment and maintenance of minimum standards of quality and maturity for fruits, nuts, and vegetables is essential to ~~insure~~ *ensure* that products of acceptable and marketable quality will be available to the consumer.

(b) Any quality and maturity standards adopted by the director pursuant to this division shall apply to the particular fruit, nut, or vegetable involved regardless of whether the item was produced in this state or outside of this state.

(c) The director may, upon a petition of a commercial producer or handler that the director finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, hold a hearing to establish, modify, or rescind, by regulation, quality and maturity standards for any fruits, nuts, or vegetables.

(d) The director shall, upon a petition of 10 commercial producers or handlers, each of whom the director finds has a separate and substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, or a petition by the Director of ~~the Department of~~ Consumer Affairs, hold a hearing to establish, modify, or rescind, by regulation, quality and maturity standards for any fruits, nuts, or vegetables.

(e) In establishing, modifying, or rescinding any quality and maturity standard for any fruit, nut, or vegetable pursuant to this chapter, the director shall do all of the following: (1) find that the regulation will provide the consumer with acceptable quality fruits, nuts, and vegetables, which will also provide stability in the marketing of these products, (2) find that the regulation will tend to prevent waste in the production and marketing of fruits, nuts, and vegetables, (3) consider the impact of the regulation upon the agricultural industry, and (4) find that the regulation is necessary to accomplish the purposes of this chapter.

(f) All regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, the director, ~~or to~~ *when* adopting any emergency regulations for quality and maturity standards for any fruits, nuts, and vegetables, shall hold a public hearing. Notice of the hearing shall be given to all persons known to the director to be interested in the proposed emergency regulations, not less than three days prior to such hearing. ~~Any such~~ *This* public hearing on emergency regulations is not in place of, and shall not preclude the director from holding, a public hearing within 120 days after adoption of emergency regulations to make the emergency regulations permanent.

SEC. 206. Section 52295 of the Food and Agricultural Code is amended to read:

52295. Members of the board shall receive no salary but may be allowed per diem in accordance with ~~State Board of Control~~

California Victim Compensation and Government Claims Board rules for attendance at meetings and other board activities authorized by the board and approved by the director.

SEC. 207. Section 52891.1 of the Food and Agricultural Code is amended to read:

52891.1. (a) The board may, by resolution, determine issues that are in the best interest of the cotton industry in the district, which shall not be limited to the growing of cottons other than Acala and Pima. The board shall authorize the conduct of referendums among all the cottongrowers in the district to vote upon the issues concerning the district. The resolution may contain provisions to protect the quality and integrity of approved fiber and seed grown within the district.

(b) The referendum shall be conducted by the secretary, upon the request of the board, using information supplied by the board and such other information as determined by the secretary, or a referendum shall be conducted by the secretary if a petition signed by not less than 5 percent of the qualified cottongrowers in the district is presented to the board. The costs of any referendum conducted pursuant to this chapter shall be paid from funds collected pursuant to this chapter.

(c) The secretary shall find the resolution approved if either of the following conditions are met:

~~(a)~~

(1) Not less than 65 percent of the cottongrowers certified by the secretary who voted in that referendum, voted in favor of the issue, and that those cottongrowers so voting represent at least a majority of the cotton producing acreage of all cottongrowers who voted in that referendum.

~~(b)~~

(2) At least a majority of those cottongrowers who voted in that referendum voted in favor of the issue and that those cottongrowers so voting represent not less than 65 percent of the cotton producing acreage of all cottongrowers who voted in that referendum. The secretary shall then so certify to the board, which shall then make the approved resolution effective as an order of the board within 10 days after the certification by the secretary.

SEC. 208. Section 62069 of the Food and Agricultural Code is amended to read:

62069. The director may establish minimum prices to be paid by handlers to producer-handlers for milk not used by the purchasing handler as class 1 milk. ~~Such~~ *These* provisions may provide that ~~such~~ *the* milk, if used in classes other than class 1 by the purchasing handler, may be paid for at the minimum prices established by the director for ~~such~~ *this* other usage but which shall not be less than the prices as found by the director to be paid by manufacturing milk plants in, or adjacent to, the area ~~which~~ *that* use milk for similar purposes. ~~Such~~ *The* prices shall remain in effect only for the period during which, as determined by the director, there is a surplus of producer-handler milk.

SEC. 209. Section 73053 of the Food and Agricultural Code is amended to read:

73053. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to ~~of~~ this chapter.

SEC. 210. Section 73202 of the Food and Agricultural Code is amended to read:

73202. This chapter, except as necessary to conduct an implementation referendum, does not become operative until the director finds in a referendum conducted by the director, or a person designated by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to Section 73201, participated, and that he or she finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed a majority of the volume of ~~naval~~ *navel* oranges in the preceding season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed 65 percent or more of the volume of navel oranges in the preceding season by all of the producers who voted in the referendum.

SEC. 211. Section 75022 of the Food and Agricultural Code is amended to read:

75022. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written

data pertaining to matters relating to the activities subject to ~~of~~ this chapter.

SEC. 212. Section 77373 of the Food and Agricultural Code is amended to read:

77373. (a) Upon a finding by a two-thirds vote of the full commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

(b) The secretary shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the director requesting a suspension signed by 20 percent of the producers by number who produced not less than 20 percent of the volume of peppers in the immediately preceding marketing year, and 20 percent of the handlers by number who handled not less than 20 percent of the volume of peppers in the immediately preceding marketing year, hold a referendum among the producers and handlers to determine if the operations of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows, by the weight of evidence, that the operation of this chapter has not tended to effectuate its declared purposes.

(c) The secretary shall establish a referendum period, that shall not be less than 10 days nor more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. The secretary shall suspend operation of this chapter if the director finds either one of the following has occurred:

(1) At least 40 percent of the total number of producers from the list established by the director have participated in the referendum:

(A) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority of the total quantity of peppers in the preceding marketing year by all of the producers who voted in the referendum.

(B) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity of peppers in the preceding marketing year by all of the producers who voted in the referendum.

(2) At least 40 percent of the total number of handlers from the list established by the director have participated in the referendum:

(A) Sixty-five percent or more of the handlers who voted in the referendum voted in favor ~~or~~ *of* suspension, and the handlers so voting handled a majority of the total quantity of peppers in the preceding marketing year by all of the handlers who voted in the referendum.

(B) A majority of the handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled 65 percent or more of the total quantity of peppers in the preceding marketing year by all of the handlers who voted in the referendum.

SEC. 213. Section 77375 of the Food and Agricultural Code is amended to read:

77375. After the effective date of suspension, the operation of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the ~~prorate~~ *prorated* refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate program conducted by the University of California or the California State University system, another state agency, or a federal agency ~~which~~ *that* deals with the purposes of this chapter. If ~~no such~~ *an appropriate* program ~~exists~~ *does not exist*, the funds shall be paid into the State Treasury as unclaimed trust funds.

SEC. 214. Section 77554 of the Food and Agricultural Code is amended to read:

77554. All funds received by any person from the assessments levied pursuant *to* this chapter or otherwise received by the commission shall be deposited in banks ~~which~~ *that* the commission may designate and shall be disbursed by order of the commission through an agent designated by the commission for that purpose. The agent shall be bonded by a fidelity bond~~,~~ *that is* executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than twenty-five thousand dollars ($25,000).

SEC. 215. Section 77941 of the Food and Agricultural Code is amended to read:

77941. The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission. No ~~member~~ *member*, alternate member, employee, or agent of the commission is personally liable for the contracts of the commission nor is ~~any such~~ *that* person responsible individually in any way to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as a principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member, alternate member, employee, or agent of the commission, is responsible individually for any act or omission of any other member, alternate member, employee, or agent of the commission. Liability is several and not joint, and no member, alternate member, employee, or agent of the commission is liable for the default of any other member, alternate member, employee, or agent of the commission.

SEC. 216. Section 800 of the Government Code is amended to read:

800. *(a)* In any civil action to appeal or review the award, finding, or other determination of any administrative proceeding under this code or under any other provision of state law, except actions resulting from actions of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, ~~where~~ *if* it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant if he or she

prevails in the civil action may collect *from the public entity* reasonable attorney's fees, computed at one hundred dollars ($100) per hour, but not to exceed seven thousand five hundred dollars ($7,500), ~~where~~ *if* he or she is personally obligated to pay the fees~~, from the public entity,~~ in addition to any other relief granted or other costs awarded.

(b) This section is ancillary only, and shall not be construed to create a new cause of action.

~~Refusal~~

(c) The refusal by a public entity or officer thereof to admit liability pursuant to a contract of insurance shall not be considered arbitrary or capricious action or conduct within the meaning of this section.

SEC. 217. Section 850.6 of the Government Code is amended to read:

850.6. *(a)* Whenever a public entity provides fire protection or firefighting service outside of the area regularly served and protected by the public entity providing ~~such~~ *that* service, the public entity providing ~~such~~ *the* service is liable for any injury for which liability is imposed by statute caused by its act or omission or the act or omission of its employee occurring in the performance of ~~such~~ *that* fire protection or firefighting service. Notwithstanding any other law, the public entity receiving ~~such~~ *the* fire protection or ~~such~~ firefighting service is not liable for any act or omission of the public entity providing the service or for any act or omission of an employee of the public entity providing the service; but the public entity providing ~~such~~ *the* service and the public entity receiving ~~such~~ *the* service may by agreement determine the extent, if any, to which the public entity receiving ~~such~~ *the* service will be required to indemnify the public entity providing the service.

(b) Notwithstanding any other provision of this section, any claims against the state shall be presented to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 ~~of the Government Code~~.

SEC. 218. Section 905.3 of the Government Code is amended to read:

905.3. Notwithstanding any other provision of law to the contrary, no claim shall be submitted by a local agency or school district, nor shall a claim be considered by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* pursuant to Section 905.2, if that claim is eligible for consideration by the Commission on State Mandates pursuant to Article 1 (commencing with Section 17550) of Chapter 4 of Part 7 of Division 4 of Title 2.

SEC. 219. Section 920 of the Government Code is amended to read:

920. As used in this chapter, "omnibus claim appropriation" means an act of appropriation, or an item of appropriation in a budget act, by which the Legislature appropriates a lump sum to pay the claim of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* or its secretary against the ~~State~~ *state* in an amount ~~which~~ *that* the Legislature has determined is properly chargeable to the ~~State~~ *state*.

SEC. 220. Section 925 of the Government Code is amended to read:

925. As used in this chapter, "board" means the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 221. Section 926.19 of the Government Code is amended to read:

926.19. (a) Unless otherwise provided for by statute, any state agency that fails to pay a person any undisputed payment or refund due to that person shall be liable for interest on the undisputed amount pursuant to this section. The interest shall be paid out of the agency's funds and shall accrue at a rate equal to the interest accrued in the Pooled Money Investment Account minus 1 percent over the term that the payment or refund was held by the agency, beginning on the 31st day after the agency provides notice to the person that a payment or refund is owed to that person or after the agency receives notice from the person that an undisputed payment or refund is due. The interest shall cease to accrue on the date full payment or refund is made.

(b) If the state agency's failure to make payment as required by this section is the result of a dispute between the state agency and the person to whom money is owed, interest shall begin to accrue on the 31st day after the dispute has been settled by

mutual agreement, arbitration, or court decision. A state agency may dispute a payment or refund if the state agency so notifies the person within 15 days after the state agency receives notice from the person that the payment or refund is due.

(c) If the state agency is not authorized to make a payment or refund to a person pursuant to this section, that state agency shall submit the claim to the Controller's office within 15 days of receiving a claim, or shall be liable for an interest penalty beginning on the 16th day, which shall be paid out of the state agency's funds and shall continue to accrue until the claim is received by the Controller's office. After the claim is forwarded to the Controller's office, an interest penalty fee shall begin to accrue on the 16th day after receipt by the Controller's office, and shall be paid out of the Controller's funds. In any event, the interest penalty shall cease to accrue on the date full payment is made to the person.

(d) (1) ~~In the event that~~ *If* a payment or refund is the joint responsibility of more than one state agency, not including the Controller's office, and neither agency is authorized to make a payment or refund, each agency shall forward the claim to the Controller's office within 15 days of receipt. Interest shall begin to accrue on the 16th day, pursuant to subdivision (c). Any accrued interest shall be the responsibility of the state agency that delays the transmittal of the claim to the Controller.

(2) If either of the responsible agencies is authorized to make a payment or refund directly to the person, each agency shall have 15 days to transmit the claim to the other agency or pay the person. Interest shall begin to accrue on the 16th day, and shall be the responsibility of the agency delaying the payment process.

(e) ~~When~~ *If* a state agency is required by this section to pay penalties that accumulate in excess of one thousand dollars ($1,000) in one fiscal year, the head of the state agency shall submit to the Legislature, within 60 days following the end of the fiscal year, a written report on the actions taken to correct the problem, including recommendations on actions to avoid a recurrence of the problem and recommendations as to statutory changes, if needed.

(f) A court shall award court costs and reasonable ~~attorney~~ *attorney's* fees to the plaintiff in an action brought pursuant to this section ~~where~~ *if* it is found that the state agency has violated

this section. The costs and fees shall be paid by the state agency at fault and shall not become a personal economic liability of any public officer or employee thereof. In the case of disputed payments or refunds, nothing in this section shall be construed as precluding a court from awarding a prevailing party the interest accrued while the dispute was pending.

(g) No state agency shall seek additional appropriations to pay interest that accrues as a result of this section.

(h) No person shall receive an interest payment pursuant to this section if it is determined that the person has intentionally overpaid on a liability solely for the purpose of receiving interest.

(i) No interest shall accrue during any time period for which there is no Budget Act in effect, nor on any payment or refund that is the result of a federally mandated program or that is directly dependent upon the receipt of federal funds by a state agency.

(j) This section shall not apply to any of the following:

(1) Payments, refunds, or credits for income tax purposes.

(2) Payment of claims for reimbursement for health care services or mental health services provided under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) Any payment made pursuant to a public social service or public health program to a recipient of benefits under that program.

(4) Payments made on claims by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

(5) Payments made by the Commission on State Mandates.

(6) Payments made by the Department of Personnel Administration pursuant to Section 19823.

SEC. 222. Section 965.1 of the Government Code is amended to read:

965.1. Pursuant to Section 13909, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* may delegate to the executive officer the authority to allow a claim filed pursuant to subdivision (c) of Section 905.2 ~~where~~ *if* the settlement amount of that claim does not exceed fifty thousand dollars ($50,000), or to reject any claim as so described.

SEC. 223. Section 997.1 of the Government Code is amended to read:

997.1. (a) Any person may file an application with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for compensation based on personal property loss, personal injury, or death, including noneconomic loss, arising from the Bay Bridge or I-880 Cypress structure collapse caused by the October 17, 1989, earthquake. Any application made pursuant to this section shall be presented to the board no later than April 18, 1990, on forms prescribed and provided by the board, except that a late claim may be presented to the board pursuant to the procedure specified by Section 911.4. Each presented application shall be verified under penalty of perjury and shall contain all of the following information:

(1) The name of the injured party or in the event of loss of life, the name and age of the decedent and the names and ages of heirs as defined in subdivision (b) of Section 377 of the Code of Civil Procedure.

(2) An authorization permitting the board to obtain relevant medical and employment records.

(3) A brief statement describing when, where, and how the injury or death occurred.

(4) A statement as to whether the applicant wishes to apply for emergency relief provided pursuant to Section 997.2.

(b) Upon receipt of an application, the board shall evaluate the application and may require the applicant to submit additional information or documents ~~which~~ *that* are necessary to verify and evaluate the application. The board shall resolve an application within six months from the date of presentation of the application unless this period of time is extended by mutual agreement between the board and the applicant. Any application ~~which~~ *that* is not resolved within this resolution period shall be deemed denied.

(c) Following resolution of an application, if the applicant desires to pursue additional remedies otherwise provided by this division, the applicant shall file a court action within six months of the mailing date of the board's rejection or denial of the application or the applicant's rejection of the board's offer.

(d) Any claim pursuant to Part 3 (commencing with Section 900) made before or after the effective date of this part for

personal property loss, personal injury, or death resulting from the collapse of the Bay Bridge or the I-880 Cypress structure against the State of California, its agencies, officers, or employees, shall be deemed to be an application under this part and subject to the provisions set forth in this part. Additionally, any application made pursuant to this part shall be deemed to be in compliance with Part 3 (commencing with Section 900).

(e) Notwithstanding any other provision of law, resolution of applications pursuant to the provisions of this part is a condition precedent to the filing of any action for personal property loss, personal injury, or death resulting from the collapse of the Bay Bridge or the I-880 Cypress structure in any court of the State of California against the State of California, its agencies, officers, or employees. Any suit filed by an applicant in any court of this state against the State of California or its agencies, officers, or employees shall be stayed pending resolution of the application.

SEC. 224. Section 998.2 of the Government Code is amended to read:

998.2. (a) Any person or business may file an application with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for compensation based on personal injury, property loss, business loss, or other economic loss, claimed to have been incurred as a result of the Lake Davis Northern Pike Eradication Project. Any application made pursuant to this section shall be presented to the board in accordance with this division. A late claim may be presented to the board pursuant to the procedure specified by Section 911.4. Each ~~such~~ application shall contain, in addition to the information required by Section 910, all of the following:

(1) The legal name of any business claiming a loss, as well as the names of the owners and officers of the business~~; for~~.

(2) For any property owner claiming diminution of property value, the names of all persons holding a legal interest in the property~~; and the~~.

(3) The name of any person claiming to have suffered personal injury.

~~(2)~~

(4) An authorization permitting the office of the Attorney General or its designee to obtain relevant medical, employment, business, property, and tax records.

~~(3)~~

(5) A brief statement describing when, where, and how the injury, loss, or diminution in market value occurred.

(b) Upon receipt of an application presented pursuant to this section from the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, the office of the Attorney General or its designee shall examine the application and may require the applicant to submit additional information or documents ~~which~~ *that* are necessary to verify and evaluate the application. The office of the Attorney General or its designee shall attempt to resolve an application within six months from the effective date of this part unless this period of time is extended by mutual agreement between the office of the Attorney General or its designee and the applicant. Any application that does not result in a final settlement agreement within the resolution period shall be deemed denied, allowing the claimant to proceed with a court action pursuant to Chapter 2 (commencing with Section 945) of Part 4.

(c) The office of the Attorney General or its designee shall adopt guidelines in consultation with one representative designated by the City of Portola, one representative designated by the County of Plumas, and one member of the public to be selected jointly by the city and the county. Any guidelines so developed shall be used to evaluate and settle claims filed pursuant to this part. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, any regulations adopted thereunder by the Attorney General in order to implement this section shall not be subject to the review and approval of the Office of Administrative Law, nor subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2).

(d) Any court action following denial of an application, including denial pursuant to subdivision (b), shall be filed within six months of the mailing date of the board’s rejection or denial of the application or the applicant’s rejection of the board’s offer pursuant to Section 945.6 or subdivision (b) of Section 998.3.

(e) Any claim pursuant to Part 3 (commencing with Section 900) made before or after the effective date of this part for personal injury, property loss, business loss, or other economic loss resulting from the Lake Davis Northern Pike Eradication Project against the State of California, it agencies, officers, or employees, shall be deemed to be an application under this part and is subject to the provisions set forth in this part. Additionally, any application made pursuant to this part shall be deemed to be in compliance with Part 3 (commencing with Section 900).

(f) Notwithstanding any other provision of law, the resolution or denial of an application pursuant to this part is a condition precedent to the filing of any action for personal injury, property damage, business loss, or other economic loss, resulting from the Lake Davis *Northern Pike Eradication* Project in any court of the State of California, against the State of California, it agencies, officers, or employees. Any suit filed by an applicant in any court of this state against the State of California or its agencies, officers, or employees shall be stayed pending resolution or denial of the application.

SEC. 225. Section 1151 of the Government Code is amended to read:

1151. State employees may authorize deductions to be made from their salaries or wages for payment of one or more of the following:

(a) Insurance premiums or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Shares or obligations to any regularly chartered credit union.

(d) Recurrent fees or charges payable to a state agency for a program ~~which~~ *that* has a purpose related to government, as determined by the Controller.

(e) The purchase of United States savings bonds in accordance with procedures established by the Controller.

(f) Payment of charitable contributions under any plan approved by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with procedures established by the Controller.

(g) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

(h) Deposit into an employee's account with a state or federal bank or savings and loan association located in this state, for services offered by that bank or savings and loan association.

(i) The purchase of any investment or thrift certificate issued by an industrial loan company licensed by this state.

SEC. 226. Section 3515.7 of the Government Code is amended to read:

3515.7. (a) Once an employee organization is recognized as the exclusive representative of an appropriate unit it may enter into an agreement with the state employer providing for organizational security in the form of maintenance of membership or fair share fee deduction.

(b) The state employer shall furnish the recognized employee organization with sufficient employment data to allow the organization to calculate membership fees and the appropriate fair share fees, and shall deduct the amount specified by the recognized employee organization from the salary or wages of every employee for the membership fee or the fair share fee. These fees shall be remitted monthly to the recognized employee organization along with an adequate itemized record of the deductions, including, if required by the recognized employee organization, machine readable data. Fair share fee deductions shall continue until the effective date of a successor agreement or implementation of the state's last, best, and final offer, whichever occurs first. The Controller shall retain, from the fair share fee deduction, an amount equal to the cost of administering ~~the provisions of~~ this section. The state employer shall not be liable in any action by a state employee seeking recovery of, or damages for, improper use or calculation of fair share fees.

(c) Notwithstanding subdivision (b), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair share fee deduction, shall instruct the employer to deduct and pay sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund approved by the ~~State Board of Control~~ *California Victim Compensation and*

Government Claims Board for receipt of charitable contributions by payroll deductions.

(d) A fair share fee provision in a memorandum of understanding ~~which~~ *that* is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for ~~such a~~ *the* vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at ~~anytime~~ *any time* during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during the term. If the board determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner ~~which~~ *that* it shall prescribe. Notwithstanding this subdivision, the state employer and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on a fair share fee provision.

(e) Every recognized employee organization ~~which~~ *that* has agreed to a fair share fee provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the board and to the employees in the unit, within 90 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee in the unit may petition the board for an order compelling this compliance, or the board may issue a compliance order on its own motion.

(f) If an employee who holds conscientious objections pursuant to subdivision (c) requests individual representation in a grievance, arbitration, or administrative hearing from the recognized employee organization, the recognized employee organization is authorized to charge the employee for the reasonable cost of the representation.

(g) An employee who pays a fair share fee shall be entitled to fair and impartial representation by the recognized employee organization. A breach of this duty shall be deemed to have occurred if the employee organization’s conduct in representation is arbitrary, discriminatory, or in bad faith.

SEC. 227. Section 3539.5 of the Government Code is amended to read:

3539.5. *(a)* The Department of Personnel Administration may adopt or amend regulations to implement employee ~~benfits~~ *benefits* for those state officers and employees excluded from, or not otherwise subject to, the Ralph C. Dills Act *(Chapter 10.3 (commencing with Section 3512))*.

(b) These regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 228. Section 3543.1 of the Government Code is amended to read:

3543.1. (a) Employee organizations shall have the right to represent their members in their employment relations with public school employers, except that once an employee organization is recognized or certified as the exclusive representative of an appropriate unit pursuant to Section 3544.1 or 3544.7, respectively, only that employee organization may represent that unit in their employment relations with the public school employer. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership.

(b) Employee organizations shall have the right of access at reasonable times to areas in which employees work, the right to use institutional bulletin boards, mailboxes, and other means of communication, subject to reasonable regulation, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this chapter.

(c) A reasonable number of representatives of an exclusive representative shall have the right to receive reasonable periods of released time without loss of compensation when meeting and negotiating and for the processing of grievances.

(d) All employee organizations shall have the right to have membership dues deducted pursuant to Sections ~~13532 and 13604.2~~ *45060 and 45168* of the Education Code, until ~~such time~~

~~as~~ an employee organization is recognized as the exclusive representative for any of the employees in an appropriate unit, and then ~~such~~ *the* deduction as to any employee in the negotiating unit shall not be permissible except to the exclusive representative.

SEC. 229. Section 3549.1 of the Government Code is amended to read:

3549.1. All the proceedings set forth in subdivisions (a) to (d), inclusive, ~~shall be~~ *are* exempt from the provisions of Sections ~~965 and 966~~ *35144 and 35145* of the Education Code, the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), unless the parties mutually agree otherwise:

(a) Any meeting and negotiating discussion between a public school employer and a recognized or certified employee organization.

(b) Any meeting of a mediator with either party or both parties to the meeting and negotiating process.

(c) Any hearing, meeting, or investigation conducted by a factfinder or arbitrator.

(d) Any executive session of the public school employer or between the public school employer and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives.

SEC. 230. Section 3572 of the Government Code is amended to read:

3572. This section shall apply only to the California State University.

(a) The duty to meet and confer in good faith requires the parties to begin negotiations prior to the adoption of the final budget for the ensuing year sufficiently in advance of the adoption date so that there is adequate time for agreement to be reached, or for the resolution of an impasse. The California State University shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda ~~which~~ *that* have fiscal ramifications. The Governor shall appoint one

representative to attend the meeting and conferring, including the impasse procedure, to advise the parties on the views of the Governor on matters ~~which~~ *that* would require an appropriation or legislative action, and the Speaker of the Assembly and the Senate ~~Rules~~ Committee *on Rules* may each appoint one representative to attend the meeting and conferring to advise the parties on the views of the Legislature on matters ~~which~~ *that* would require an appropriation or legislative action.

(b) No written memoranda reached pursuant to ~~the provisions of~~ this chapter ~~which~~ *that* require budgetary or curative action by the Legislature or other funding agencies shall be effective unless and until ~~such an~~ *that* action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding for all state-funded employees or for necessary legislation ~~will~~ *shall* be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fail to fully fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring~~; provided, however, that~~ *unless* the parties ~~may~~ agree that provisions of the memoranda ~~which~~ *that* are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

SEC. 231. Section 5906 of the Government Code is amended to read:

5906. Any bonds issued by a state or local government pursuant to this chapter, or otherwise, and the purchasers or holders thereof, shall be exempt from the usury provisions of Section 1 of Article XV of the California Constitution. Any loan, lease, installment sale, investment, forbearance of money, or other agreement between a user of the proceeds of or other moneys pledged to bonds and the issuer of the bonds, or entered into by or on behalf of the issuer of the bonds ~~which~~ *that* provides for the use of the proceeds of the bonds or other moneys pledged to or securing the bonds, and the issuer of the bonds or any person acting on its behalf in connection with the foregoing shall be exempt from the ~~usuary~~ *usury* provisions of Section 1 of Article XV of the California Constitution. This section creates

and authorizes exempted classes of transactions and persons pursuant to Section 1 of Article XV of the California Constitution.

SEC. 232. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, ~~provided that~~ *if* the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice,

and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes~~, except that~~. *However,* state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that~~—reflect~~ *reflects* the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location

where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code~~, except that~~. *However,* the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or

furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary~~, provided that~~. *However,* public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions,

recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. ~~In the event that~~ *If* a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with

an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) ~~In the event that~~ *If* a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates

of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of ~~the Department of~~ Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the

funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions,

opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(bb) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Office of Homeland Security for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(cc) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act *(29 U.S.C. Sec. 158)*.

SEC. 233. Section 6254.26 of the Government Code is amended to read:

6254.26. (a) Notwithstanding any provision of this chapter or other law, the following records regarding alternative investments in which public investment funds invest shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the keeper of the information:

(1) Due diligence materials that are proprietary to the public investment fund or the alternative investment vehicle.

(2) Quarterly and annual financial statements of alternative investment vehicles.

(3) Meeting materials of alternative investment vehicles.

(4) Records containing information regarding the portfolio positions in which alternative investment funds invest.

(5) Capital call and distribution notices.

(6) Alternative investment agreements and all related documents.

(b) Notwithstanding subdivision (a), the following information contained in records described in subdivision (a) regarding alternative investments in which public investment funds invest shall be subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:

(1) The name, address, and vintage year of each alternative investment vehicle.

(2) The dollar amount of the commitment made to each alternative investment vehicle by the public investment fund since inception.

(3) The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.

(4) The dollar amount, on a fiscal ~~yearend~~ *year-end* basis, of cash distributions received by the public investment fund from each alternative investment vehicle.

(5) The dollar amount, on a fiscal ~~yearend~~ *year-end* basis, of cash distributions received by the public investment fund plus remaining value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.

(6) The net internal rate of return of each alternative investment vehicle since inception.

(7) The investment multiple of each alternative investment vehicle since inception.

(8) The dollar amount of the total management fees and costs paid on an annual fiscal ~~yearend~~ *year-end* basis, by the public investment fund to each alternative investment vehicle.

(9) The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal ~~yearend~~ *year-end* basis.

(c) For purposes of this section, the following definitions shall apply:

(1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.

(2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies.

(3) "Portfolio positions" means individual portfolio investments made by the alternative investment vehicles.

(4) "Public investment fund" means any public pension or retirement system, and any public endowment or foundation.

SEC. 234. Section 6577 of the Government Code is amended to read:

6577. Funding or refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all of the following:

(a) All bonds to be funded or refunded by them.

(b) All expenses incident to the calling, retiring, or paying of the outstanding bonds and the issuance of the funding or refunding bonds, including the costs of issuing the refunding bonds ~~(as~~, *as* defined in Section 53550.

(c) Interest upon the funding or refunding bonds from the date of sale to the date of payment of the bonds to be funded or refunded out of the proceeds of the sale or the date upon which the bonds to be funded or refunded will be paid pursuant to the call or agreement with the holders of such bonds.

(d) Any premium necessary in the calling or retiring of the outstanding bonds and the interest accruing on them to the date of the call or retirement.

SEC. 235. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the department, fulfills at least one of the following criteria:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed zone has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed zone have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed zone has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed zone does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) "Enterprise zone" means any area within a city, county, or city and county that is designated as ~~such~~ *an enterprise zone* by the department in accordance with Section 7073.

(e) "Governing body" means a county board of supervisors or a city council, as appropriate.

(f) "High technology industries" includes, but is not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(g) "Resident," unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(h) "Targeted employment area" means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a "targeted employment area" is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that

has jurisdiction of the enterprise zone may be included in a targeted employment area.

At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

SEC. 236. Section 7509 of the Government Code is amended to read:

7509. *(a)* The restrictions upon rates of interest contained in Section 1 of Article XV of the ~~State~~ *California* Constitution shall not apply to any loans made by, or forbearances of, any state or local public retirement system, including, but not limited to, any public retirement system authorized and regulated by the State Teachers' Retirement Law, the Public Employees' Retirement Law, the County Employees Retirement Law of 1937, any public retirement system administered by the Teachers Retirement Board or Board of Administration of the Public Employees' Retirement System, or any public retirement system acting pursuant to the laws of this state or the laws of any local agency.

(b) For the purposes of this section, ~~local agency shall mean~~ *"local agency" means* county, city, city and county, district, school district, or any public or municipal corporation, political ~~subdivison~~ *subdivision*, or other public agency of the state, or any instrumentality of one or more of ~~any such~~ *these* agencies.

(c) This section creates and authorizes any state or local retirement system as an exempt class of persons pursuant to Section 1 of Article XV of the ~~State~~ *California* Constitution.

SEC. 237. Section 7520 of the Government Code is amended to read:

7520. *(a)* Notwithstanding any other provision of law, any public pension fund or retirement system of this state or local agency of this state may contract with a savings and loan association doing business in this state under terms by which the association shall receive deposits of money from the fund or system for a term of 12 months or longer upon the association's agreement to offer loans for the construction of new residential structures and related improvements, including apartment buildings or other multiple-unit structures, in an amount equal to the amount of the deposit, at a rate of interest equal to the rate of interest on the deposit plus 200 basis points. The savings and loan association may require additionally an origination fee not exceeding the amount required by the savings and loan association for comparable loans not subject to this section, but in no case exceeding 5 percent of the loan amount. This fee shall not be deemed to include any expenses of the association directly related to approving, processing, or recording loans made pursuant to this section. Reasonable charges to cover ~~such~~ *those* expenses may be imposed in connection with ~~such~~ *the* loans.

(b) Nothing in this section shall authorize a pension fund or retirement system to make deposits at less than the otherwise applicable rate of interest nor prohibit the fund ~~of~~ *or* system from depositing funds with other financial institutions or under other conditions.

SEC. 238. Section 7901 of the Government Code is amended to read:

7901. For the purposes of Article XIII B of the California Constitution and this division:

(a) "Change in California per capita personal income" means the number resulting when the quotient of the California personal income, as published by the United States Department of Commerce in the Survey of Current Business for the fourth quarter of a calendar year divided by the civilian population of the state on January 1 of the next calendar year, as estimated by the Department of Finance, is divided by the similarly determined quotient for the next prior year. For example, the change in California per capita personal income for 1979 (to be used for computing the appropriations limit for the 1980–81

fiscal year) would equal the fourth quarter 1979 personal income divided by the January 1, 1980, population, the quotient divided by the fourth quarter 1978 personal income divided by the January 1, 1979, population.

(b) "Change in population" for a local agency for a calendar year means the number resulting when the percentage change in population between January 1 of the next calendar year and January 1 of the calendar year in question, as estimated by the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code for each city and county and Section 2228 of the Revenue and Taxation Code for each special district, plus 100, is divided by 100. For example, the change in population for 1979 would equal the percentage change in population between January 1, 1980, and January 1, 1979, plus 100, the sum divided by 100. For purposes of the state's appropriations limit, "change in population" means the number resulting when the civilian population of the state on January 1 of the next calendar year, as estimated by the Department of Finance, is divided by the similarly estimated population for January 1 of the calendar year in question. For example, the change in population for 1979 (to be used for computing the appropriations limit for the 1980–81 fiscal year) would equal the January 1, 1980, population divided by the January 1, 1979, population.

A city or special district may choose to use the change in population within its jurisdiction or within the county in which it is located. For a special district located in two or more counties, the special district may choose to use the change in population in the county in which the portion of the district is located which has the highest assessed valuation. Each city and special district shall select its change in population pursuant to this paragraph annually by a recorded vote of the governing body of the city or special district. A charter city and county may choose to use the change in population provided in this paragraph or may choose to use the change in population provided in Section 2 of Chapter 1221 of the Statutes of 1980.

A county may choose to use any one of the following:

(1) The change in population within its jurisdiction.

(2) The change in population within its jurisdiction, combined with the change in population within all counties having borders that are contiguous to that county.

(3) The change in population within the incorporated portion of the county.

(c) "Change in population" for a school district means the change in average daily attendance between the year prior to that for which the appropriations limit is being computed and the year for which the appropriations limit is being computed, using the average daily attendance as defined in Section 7906.

(d) "Change in population" for a community college district means the number resulting when the average daily attendance reported by the community college district for state apportionment funding purposes computed pursuant to *former* Article 2 (commencing with Section 84520) of Chapter 4 of Part 50 of the Education Code is divided by the similarly computed average daily attendance for the previous year.

(e) "Local agency" means a city, county, city and county, special district, authority or other political subdivision of the state, except a school district, community college district, or county superintendent of schools. The term "special district" shall not include any district which (1) existed on January 1, 1978, and did not possess the power to levy a property tax at that time or did not levy or have levied on its behalf, an ad valorem property tax rate on all taxable property in the district on the secured roll in excess of 12½ cents per ~~$100~~ *one hundred dollars ($100)* of assessed value for the 1977–78 fiscal year, or (2) existed on January 1, 1978, or was thereafter created by a vote of the people, and is totally funded by revenues other than the proceeds of taxes as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution.

If a special district levied, or had levied on its behalf, different property tax rates for the 1977–78 fiscal year depending on which area or zone within the district boundaries property was located, it shall be deemed not to have levied a secured property tax rate in excess of 12½ cents per ~~$100~~ *one hundred dollars ($100)* of assessed value if the total revenue derived from the ad valorem property tax levied by or for the district for 1977–78, divided by the total amount of taxable assessed valuation within the district's boundaries for 1977–78, does not exceed .00125.

(f) "School district" means an elementary, high school, or unified school district.

(g) "Local jurisdiction" means a local agency, school district, community college district, or county superintendent of schools.

(h) As used in Section 2 and subdivision (b) of Section 3 of Article XIII B, "revenues" means all tax revenues and the proceeds to a local jurisdiction or the state received from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues as described in subdivision (i) of Section 8 of Article XIII B. For a local jurisdiction, revenues and appropriations shall also include subventions, as defined in Section 7903, and with respect to the state, revenues and appropriations shall exclude those subventions.

(i) (1) "Proceeds of taxes" shall not include proceeds to a local jurisdiction or the state from regulatory licenses, user charges, or user fees except to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service.

(2) "Proceeds of taxes" also does not include the proceeds received by a local jurisdiction from a license tax imposed pursuant to Section 25149.5 of the Health and Safety Code or a tax or fee imposed pursuant to Section 25173.5 of the Health and Safety Code on the operation of a hazardous waste facility, or the proceeds received by a local jurisdiction from a surcharge ~~which~~ *that* is collected by a regional disposal facility, as authorized pursuant to Section 115255 of the Health and Safety Code to the extent that these proceeds of the license tax, tax, fee, or surcharge are expended for costs or increased burdens on local jurisdictions ~~which~~ *that* are associated with the hazardous waste facility or regional disposal facility. These costs or burdens include, but are not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, emergency medical response, law enforcement, air and groundwater monitoring, epidemiological studies, emergency response training, and equipment related to the hosting of the hazardous waste facility or regional disposal facility.

SEC. 239. Section 7907 of the Government Code is amended to read:

7907. For county superintendents of schools:

(a) "Proceeds of taxes" shall be deemed to include subventions received from the state only if those subventions are received for one or more of the following programs:

(1) Educational services provided directly to pupils, including, but not limited to, the services described in subdivision (c) of Section 1981 of, Sections 1904, 2550.2, 2551.3, 8152, 48633, 52570, and 58804 of, and Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of, the Education Code.

(2) Support services provided to school districts, including, but not limited to, the services described in subdivision (b) of Section 2550 of, and Sections 1510, 2509, 2551, 2554, and 2555 of, the Education Code.

(3) Direct services provided to school districts, as described in subdivision (a) of Section 2550 of the Education Code.

(b) For programs identified in paragraph (1) of subdivision (a), an amount shall be calculated equal to the appropriations made for those programs from the proceeds of taxes for the 1978–79 fiscal year, adjusted for the 1979–80 and 1980–81 fiscal years by the lesser of the change in cost of living or change in California per capita personal income applicable to each year and by the percentage change in average daily attendance in those programs for the 1979–80 and 1980–81 fiscal years.

(c) For all other programs operated by the county superintendent of schools, including, but not limited to, the programs identified in paragraphs (2) and (3) of subdivision (a), an amount shall be calculated equal to the appropriations made for those programs from the proceeds of taxes for the 1978–79 fiscal year, adjusted for the 1979–80 and 1980–81 fiscal years by the lesser of the change in cost of living or change in California per capita personal income for each year and by the percentage change in population ~~(as~~, *as* defined by subdivision (d) of Section ~~7901)~~ *7901,* for all the districts in the county for the 1979–80 and 1980–81 fiscal years. The "percentage change in population" for the program identified in paragraph (3) of subdivision (a) shall be, for purposes of this subdivision, the percentage change in direct services average daily attendance as calculated pursuant to ~~sudivision~~ *subdivision* (a) of Section 2550 of the Education Code.

(d) The sum of the amounts calculated in subdivisions (b) and (c) shall be the appropriations limit for the county superintendent for the 1980–81 fiscal year.

(e) For the 1981–82 fiscal year and each year thereafter, the appropriations limit for the prior year shall be adjusted by the appropriate average daily attendance and the lesser of the change in cost of living or California per capita personal income.

(f) For the 1981–82 fiscal year through the 1987–88 fiscal year, state apportionments to county superintendents in excess of the amounts in subdivision (d) or (e) shall not be considered proceeds of taxes for a county superintendent of schools.

(g) For the 1988–89 fiscal year and each fiscal year thereafter, the state apportionments to county superintendents ~~which~~ *that* shall be considered "proceeds of taxes" for a county superintendent of schools shall be equal to the lesser of the following:

(1) The total amount of state apportionments received for that fiscal year, excluding amounts paid for reimbursement of state mandates in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 or for reimbursement of court or federal mandates imposed on or after November 6, 1979.

(2) The appropriations limit for the county superintendent for that fiscal year, less the sum of all of the following:

(A) Interest earned on the proceeds of taxes during the current fiscal year.

(B) The 50 percent of miscellaneous funds received during the current fiscal year ~~which~~ *that* are from the proceeds of taxes.

(C) Locally voted taxes received during the current year, such as parcel taxes or square foot taxes, other than for voter-approved bonded debt.

(D) Any other local proceeds of taxes received during the current year, such as excess bond revenues transferred to a district's general fund pursuant to Section 15234 of the Education Code.

(E) Local proceeds of taxes received during the current fiscal year which offset state aid.

(3) Amounts paid for court or federal mandates shall be excluded from the appropriations limit.

SEC. 240. Section 8902 of the Government Code is amended to read:

8902. During ~~such~~ *those* times ~~as~~ *that* a Member of the Legislature is required to be in Sacramento to attend a session of the Legislature and during ~~such~~ *those* times ~~as~~ *that* a member is traveling to and from, or is in attendance at, any meeting of a committee of which he or she is a member or is attending to any other legislative function or responsibility as authorized or directed by the rules of the house of which he or she is a member or by the joint rules, he or she shall be entitled to reimbursement of his or her living expenses at a rate established by the ~~State Board of Control which~~ *California Victim Compensation and Government Claims Board that* is not less than the rate provided to federal employees traveling to Sacramento.

SEC. 241. Section 8652 of the Government Code is amended to read:

8652. Before payment may be made by the state to any person in reimbursement for taking or damaging private property necessarily utilized by the Governor in carrying out his *or her* responsibilities under this chapter during a state of war emergency or state of emergency, or for services rendered at the instance of the Governor under ~~said~~ *those* conditions, ~~such~~ *the* person ~~must~~ *shall* present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with the provisions of the Government Code governing the presentation of claims against the state for the taking or damaging of private property for public use, which provisions shall govern the presentment, allowance, or rejection of ~~such~~ *the* claims and the conditions upon which suit may be brought against the state. Payment for ~~such~~ property or services shall be made from any funds appropriated by the state for ~~such~~ *that* purpose.

SEC. 242. Section 8894.1 of the Government Code is amended to read:

8894.1. This chapter shall not apply to potentially hazardous (unreinforced masonry) buildings covered under Chapter 12.2 (commencing with Section 8875), any building covered under Chapter 13.4 (commencing with Section 8893), school buildings covered under Article 3 (commencing with Section ~~39140)~~ *17280)* of Chapter ~~2~~ *3 of Part 10.5* of the Education Code,

hospital buildings covered under Chapter 1 (commencing with Section 129675) of Part 7 of Division 107 of the Health and Safety Code, and historical buildings covered under Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code.

SEC. 243. Section 11007.6 of the Government Code is amended to read:

11007.6. Any state agency may, subject to rules and regulations of the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*, insure its officers and employees not covered by Part 2.6 (commencing with Section 19815) of Division 5 against injury or death incurred while flying on state business in any, except regularly scheduled, passenger aircraft.

SEC. 244. Section 11014 of the Government Code is amended to read:

11014. *(a)* In exercising the powers and duties granted to and imposed upon it, any state agency may construct and maintain communication lines as may be necessary.

(b) In providing communications and necessary powerlines in connection ~~therewith~~ *with activities under subdivision (a)*, the agency, with the approval of the Department of General Services, may enter into contracts with owners of similar facilities for use of their facilities, such as pole lines, and provisions may be made for indemnification and holding harmless of the owners of ~~the~~ *those* facilities ~~so used~~ by reason of this use. Insurance may be purchased by the Department of General Services, upon request of the agency, to protect the state against loss or expense arising out of ~~any such~~ *the* contract.

(c) Any claim for damages arising against the state under this section shall be presented to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with Sections 905.2 and 945.4, and if not covered by insurance as ~~herein~~ provided *under subdivision (b), the claim* shall be payable only out of funds appropriated by the Legislature for this purpose. If the state elects to insure its liability under this section, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* may automatically deny ~~any such~~ *that* claim.

SEC. 245. Section 11030.1 of the Government Code is amended to read:

11030.1. When a state employee not covered by Part 2.6 (commencing with Section 19815) of Division 5 dies while traveling on official state business, the state shall, under rules and regulations adopted by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, pay the traveling expenses necessary to return the body to his or her official headquarters or the place of burial. This subdivision shall not be construed to authorize the payment of the traveling expenses, either going or returning, of one accompanying that body.

SEC. 246. Section 11030.2 of the Government Code is amended to read:

11030.2. Any state officer or employee not covered by Part 2.6 (commencing with Section 19815) of Division 5 when working overtime at his or her headquarters on state business may receive his or her actual and necessary expenses, during his or her regular ~~work week~~ *workweek*, subject to rules and regulations adopted by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* limiting the amount of the expenses and prescribing the conditions under which the expenses may be paid~~; provided, however, that~~. *However,* each state agency may determine the necessity for and limit ~~such~~ *these* expenses of its employees in ~~such~~ *a* manner ~~as~~ *that* does not conflict with and is within the limitations prescribed by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 247. Section 11031 of the Government Code is amended to read:

11031. The headquarters of elective constitutional officers ~~(other~~, *other* than Members of the ~~Legislature)~~ *Legislature,* shall be established by the filing of a written statement with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* that certifies that the selected headquarters is the place where the officer spends the largest portion of his or her regular workdays or working time.

SEC. 248. Section 11125.7 of the Government Code is amended to read:

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public~~, provided, however, that~~ *if* no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

SEC. 249. Section 11125.8 of the Government Code is amended to read:

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

SEC. 250. Section 11270 of the Government Code is amended to read:

11270. As used in this article, "administrative costs" means the amounts expended by the Legislature, Controller, *and* Treasurer, the State Personnel Board, the Department of General Services, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, the ~~State~~ Department of Finance, the Office of Administrative Law, the Department of Personnel Administration, the Secretary of ~~the~~ State and Consumer Services ~~Agency~~, the Secretary of ~~the~~ Business, Transportation and Housing ~~Agency~~, the Secretary of ~~the Health and Welfare Agency~~ *California Health and Human Services*, the Secretary of the Resources Agency, the Secretary of the ~~Youth and Adult Correctional Agency~~ *Department of Corrections and Rehabilitation, and* the California State Library~~, and the Department of Information Technology~~, and a proration

of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to the various state agencies.

SEC. 251. Section 11275 of the Government Code is amended to read:

11275. If, upon receipt of the statement provided in Section 11274, the state agency does not have funds available by law for the payment of the administrative costs, or if it has any other reason why the payment of those costs should not be made at the time specified on the statement, the state agency shall, prior to the expiration of the 30-day period referred to in the statement, file with the Controller, in duplicate, a written request to defer payment of those administrative costs, which request shall set forth the reasons why that payment should be deferred. Upon receipt of any request filed because of lack of availability of funds, the Controller shall forthwith transmit one copy of that request to the Department of Finance~~;~~ and shall defer action to effect the transfer of funds covering the administrative costs referred to in the request until the transfer has been approved by the Director of Finance. The Department of Finance shall notify the Controller of the approval of the deferral request. Upon receipt of any request filed because of any reason other than lack of availability of funds, the Controller shall forthwith transmit one copy of that request to the ~~Board of Control;~~ *California Victim Compensation and Government Claims Board* and shall defer action to effect the transfer of funds until that transfer has been approved by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 252. Section 12467 of the Government Code is amended to read:

12467. (a) (1) The Legislature finds and declares that the General Fund has experienced significant deficits in recent years due to economic factors and extraordinary demand for public services supported by the General Fund. In order to meet the cash needs of the state, it has been necessary to obtain external loans. The Legislature desires to provide a specific mechanism to eliminate chronic General Fund cash deficits, provide fiscal stability, and facilitate temporary, short-term borrowing.

(2) For purposes of this section, "unused borrowable resources," as of any date, means total available borrowable resources on that date less total ~~cummulative~~ *cumulative* loan balances on that date.

(b) On November 15, 1994, the Controller shall provide a detailed report to the Legislature and the Governor of the estimated cash condition of the General Fund for the 1994–95 fiscal year. The Legislative Analyst shall prepare an analysis of General Fund revenues and expenditures for the 1994–95 fiscal year for use by the Controller in the estimate of the 1994–95 General Fund cash condition. The Legislative Analyst shall review the Controller's estimate of the General Fund cash condition and within five working days shall advise the Controller, the Treasurer, the Chairperson of the Joint Legislative Budget Committee, and the Director of Finance whether that estimate reasonably reflects anticipated expenditures and revenues during the fiscal year. The Controller's report shall identify the amount of any 1995 cash shortfall, as set forth in this subdivision. To that end, the Controller shall identify the projected amount by which the unused borrowable resources on June 30, 1995, will differ from the unused borrowable resources on June 30, 1995, as indicated in the ~~cash-flow~~ *cash flow* analysis included in the official statement accompanying the sale of the July 1994 revenue anticipation warrants. If the Controller's report identifies a decrease in the unused borrowable resources on June 30, 1995, of more than four hundred thirty million dollars ($430,000,000), then the 1995 cash shortfall shall be the amount of the difference that exceeds four hundred thirty million dollars ($430,000,000). On or before January 10, 1995, the Governor shall propose legislation providing for sufficient General Fund expenditure reductions, revenue increases, or both, to offset the amount of the estimated 1995 cash shortfall as reported by the Controller. This legislation, or legislation providing equivalent expenditure reductions, revenue increases, or both, shall be enacted on or before February 15, 1995.

(c) The Director of Finance shall include updated ~~cash-flow~~ *cash flow* statements for the 1994–95 and 1995–96 fiscal years in the May revision to the budget proposal for the 1995–96 fiscal year submitted to the Legislature pursuant to Section 13308. The revised budget proposal for the 1995–96 fiscal year shall not

result in any projected negative amount of unused borrowable resources as of June 30, 1996. By June 1, 1995, the Controller shall concur with those updated statements or provide a report to the Governor and the Legislature identifying specific corrections, objections, or concerns and the Controller's estimate of the cash condition of the General Fund for the 1994–95 and 1995–96 fiscal years. If the Controller identifies any projected negative amount of unused borrowable resources as of June 30, 1996, then the Governor shall propose additional General Fund expenditure reductions, revenue increases, or both, to eliminate that cash shortfall. The enacted budget shall not result in any projected negative unused borrowable resources as of June 30, 1996.

(d) On October 15, 1995, the Controller shall provide a detailed report to the Legislature and the Governor of the estimated cash condition of the General Fund for the 1995–96 fiscal year. The Legislative Analyst shall prepare an analysis of General Fund revenues and expenditures for the 1995–96 fiscal year for use by the Controller in the estimate of the 1995–96 General Fund cash condition. The Legislative Analyst shall review the Controller's estimate of the General Fund cash condition and within five working days shall advise the Controller, the Treasurer, the Chairperson of the Joint Legislative Budget Committee, and the Director of Finance whether that estimate reasonably reflects anticipated expenditures and revenues during the fiscal year. The Controller's report shall identify the amount of any 1996 cash shortfall, as set forth in this subdivision. The Controller shall identify the projected amount of unused borrowable resources as of June 30, 1996. If the Controller's report identifies a negative amount of unused borrowable resources as of June 30, 1996, then the 1996 cash shortfall shall be the amount necessary to bring the balance of unused borrowable resources on June 30, 1996, to zero. Within 10 days of the Legislative Analyst's review, the Governor shall propose legislation providing for sufficient General Fund expenditure reductions, revenue increases, or both, to offset the estimated 1996 cash shortfall as reported by the Controller. This legislation, or legislation providing equivalent expenditure reductions, revenue increases, or both, shall be enacted on or before December 1, 1995.

(e) (1) If the legislation required by subdivision (b) is not enacted, within five days the Director of Finance shall reduce all General Fund appropriations for the 1994–95 fiscal year, except those required by subdivision (b) of Section 8 of Article XVI, Section 25 of Article XIII, Section 6 of Article XIII B, or any other provision of the California Constitution, and general obligation debt service, or law of the United States, by the percentage equal to the ratio of the 1995 cash shortfall to total remaining General Fund appropriations for the 1994–95 fiscal year, after excluding the appropriations that are not subject to reduction.

(2) If the legislation required by subdivision (d) is not enacted, within five days the Director of Finance shall reduce all General Fund appropriations for the 1995–96 fiscal year, except those required by subdivision (b) of Section 8 of Article XVI, Section 25 of Article XIII, Section 6 of Article XIII B, or any other provision of the California Constitution, ~~and General Obligation~~ *any general obligation* debt service, or law of the United States, by the percentage equal to the ratio of the 1996 cash shortfall to total remaining General Fund appropriations for the 1995–96 fiscal year, after excluding the appropriations that are not subject to reduction.

(3) Notwithstanding any other provision of law, ~~in the event~~ *if* a General Fund appropriation that is reduced pursuant to paragraph (1) or (2) is for a program under which individuals other than an officer or employee of the state receive an amount determined pursuant to statute, whether that amount is an entitlement or not, that amount shall be reduced by the same percentage as the General Fund appropriation from which that payment is made is reduced.

(f) The State of California hereby pledges to and agrees with the holders of any registered reimbursement warrants and any revenue anticipation notes issued in July 1994, and any banking institutions that provide credit support for these warrants or notes, that the state will not limit or alter the obligation hereby required of the state by this section until the registered reimbursement warrants and revenue anticipation notes, together with interest thereon, are fully met and discharged.

SEC. 253. Section 12807.5 of the Government Code is amended to read:

12807.5. The Secretary of the Resources Agency, in reviewing projects pursuant to Sections 5096.87 and 5096.128 of the Public Resources Code, shall consider the arborescent prototype park project of the Southgate Recreation and Park District in Sacramento County.

It is the intent of the Legislature that, if the secretary deems that project to be among projects of highest priority and there are insufficient ~~money~~ *moneys* available under the Z'berg-Collier Park Bond Act and the Nejedly-Hart State, Urban, and Coastal Park Bond Act of 1976 to fund a one hundred seventy-two thousand dollar ($172,000) grant to the district for that project, any deficiency in that grant be made from other available sources.

SEC. 254. Section 12838.1 of the Government Code is amended to read:

12838.1. *(a)* There is hereby created within the Department of Corrections and Rehabilitation, under the Chief Deputy Secretary for Adult Operations, the Division of Adult Institutions and the Division of Adult Parole Operations. Each division shall be headed by a division chief, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(b) The Governor shall, upon recommendation of the secretary, appoint five subordinate officers to the Chief of the Division of Adult Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities.

SEC. 255. Section 13300 of the Government Code is amended to read:

13300. (a) The department shall devise, install, supervise, and, at its discretion, revise and modify, a modern and complete accounting system for each agency of the state permitted or charged by law with the handling of public money or its equivalent, to the end that all revenues, expenditures, receipts, disbursements, resources, obligations, and property of the state be properly, accurately, and systematically accounted for and that

there shall be obtained accurate and comparable records, reports, and statements of all the financial affairs of the state.

(b) This system shall be of a nature so as to permit a comparison of budgeted expenditures, actual expenditures, and encumbrances and payables, as defined by the California Fiscal Advisory Board, and estimated revenue to actual revenue, which is compatible with a budget coding system, developed by the department. In addition, the system shall provide for a federal revenue accounting system with cross-references of federal fund sources to state activities.

(c) This system shall include a cost accounting system ~~which~~ *that* accounts for expenditures by line item, governmental unit, and fund source. The system shall also be capable of performing program cost accounting as required. The system and the accounts maintained by the several agencies of the state shall be coordinated with the central accounts maintained by the Controller, and shall provide the Controller with all information necessary to the maintenance by the Controller of a comprehensive system of central accounts for the entire state government. The Controller or the Director of Finance may submit to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* and the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall consider and adopt any rule or regulation required to implement this section.

(d) The requirements of this section shall apply to departments commencing with the second fiscal year following the fiscal year for which funds are appropriated by the Legislature to implement ~~the provisions of~~ this section. The department shall adopt guidelines and instructions to implement the application of this section.

SEC. 256. Section 13332.09 of the Government Code is amended to read:

13332.09. (a) No purchase order or other form of documentation for acquisition or replacement of motor vehicles shall be issued against any appropriation until the Department of General Services has investigated and established the necessity therefor.

(b) A state agency may not acquire surplus mobile equipment from any source for program support until the Department of

General Services has investigated and established the necessity therefor.

(c) Notwithstanding any other provision of law, all contracts for the acquisition of motor vehicles or general use mobile equipment for a state agency shall be made by or under the supervision of the Department of General Services. Pursuant to Section 10298, the Department of General Services may collect a fee to offset the cost of the services provided.

(d) All passenger-type motor vehicles purchased for state officers and employees, except constitutional officers, shall be American-made vehicles of the light class, as defined by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, unless excepted by the Director of General Services on the basis of unusual requirements, including, but not limited to, use by the California Highway Patrol, that would justify the need for a motor vehicle of a heavier class.

(e) No general use mobile equipment having an original purchase price of twenty-five thousand dollars ($25,000) or more shall be rented or leased from a nonstate source and payment therefor made from any appropriation for the use of the Department of Transportation, without the prior approval of the Department of General Services after a determination that comparable state-owned equipment is not available, unless obtaining approval would endanger life or property, in which case the transaction and the justification for not having sought prior approval shall be reported immediately thereafter to the Department of General Services.

(f) As used in this section:

(1) "General use mobile equipment" means equipment that is listed in the Mobile Equipment Inventory of the State Equipment Council and ~~which~~ *that* is capable of being used by more than one state agency, and shall not be deemed to refer to equipment having a practical use limited to the controlling state agency only. Section 575 of the Vehicle Code shall have no application to this section.

(2) "State agency" means a state agency, as defined pursuant to Section 11000, and each campus of the California State University. The University of California is requested and encouraged to have the Department of General Services perform

the tasks identified in this section with respect to the acquisition or replacement of motor vehicles by the University of California.

SEC. 257. Section 13905 of the Government Code is amended to read:

13905. The board shall have a seal, bearing the following inscription: ~~"State Board of Control."~~ *"California Victim Compensation and Government Claims Board."* The seal shall be fixed to all writs and authentications of copies of records and to ~~such~~ other instruments ~~as~~ *that* the board directs.

SEC. 258. Section 13972 of the Government Code is amended to read:

13972. ~~In the event~~ *(a) If* a private citizen incurs personal injury or death or damage to his or her property in preventing the commission of a crime against the person or property of another, in apprehending a criminal, or in materially assisting a peace officer in prevention of a crime or apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, the private citizen, his or her surviving spouse, his or her surviving children, a person dependent upon ~~such~~ *the* citizen for his or her principal support, or a public safety or law enforcement agency acting on behalf of any of the above may file a claim with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for indemnification to the extent that the claimant is not compensated from any other source for ~~such~~ *the* injury, death, or damage. The claim shall generally show *all of the following*:

~~(a)~~

(1) The date, place, and other circumstances of the occurrence or events ~~which~~ *that* gave rise to the claim~~;~~.

~~(b)~~

(2) A general description of the activities of the private citizen in prevention of a crime, apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe~~;~~.

~~(c)~~

(3) The amount or estimated amount of the injury, death, or damage sustained for which the claimant is not compensated from any other source, insofar as it may be known at the time of the presentation of the claim~~;~~.

~~(d) Such~~

(4) Any other information ~~as~~ *that* the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* may require.

~~The~~

(b) A claim *filed under subdivision (a)* shall be accompanied by a corroborating statement and recommendation from the appropriate state or local public safety or law enforcement agency.

SEC. 259. Section 13973 of the Government Code is amended to read:

13973. *(a)* Upon presentation of ~~any such~~ *a* claim *pursuant to this chapter*, the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* shall fix a time and place for the hearing of the claim, and shall mail notices ~~thereof~~ *of the hearing* to interested persons or agencies. At the hearing, the board shall receive recommendations from public safety or law enforcement agencies, and evidence showing *all of the following*:

~~(a)~~

(1) The nature of the crime committed by the apprehended criminal or prevented by the action of the private citizen, or the nature of the action of the private citizen in rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, and the circumstances involved~~;~~.

~~(b)~~

(2) That the actions of the private citizen substantially and materially contributed to the apprehension of a criminal, the prevention of a crime, or the rescuing of a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe~~;~~.

~~(c)~~

(3) That as a direct consequence, the private citizen incurred personal injury or damage to property or died~~;~~.

~~(d)~~

(4) The extent of ~~such~~ *the* injury or damage for which the claimant is not compensated from any other source~~;~~.

~~(e) Such~~

(5) Any other evidence ~~as~~ *that* the board may require.

(b) If the board determines, on the basis of a preponderance of ~~such~~ *the* evidence, that the state should indemnify the claimant for the injury, death, or damage sustained, it shall approve the claim for payment. In no event shall a claim be approved by the board under this article in excess of ten thousand dollars ($10,000).

(c) In addition to any award made under this ~~article~~ *chapter*, the board may award, as attorney's fees, an amount representing the reasonable value of legal services rendered a claimant, but in no event to exceed 10 percent of the amount of the award. No attorney shall charge, demand, receive, or collect for services rendered in connection with any proceedings under this ~~article~~ *chapter* any amount other than that awarded as attorney's fees under this section. Claims approved under this ~~article~~ *chapter* shall be paid from a separate appropriation made to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in the Budget Act and as ~~such~~ *the* claims are approved by the board.

SEC. 260. Section 13974 of the Government Code is amended to read:

13974. The ~~Board of Control~~ *California Victim Compensation and Government Claims Board* is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect ~~the provisions of~~ this article.

SEC. 261. Section 13974.1 of the Government Code is amended to read:

13974.1. (a) The board shall utilize the provisions of this article, insofar as they may be made applicable, to establish a claim and reward procedure to reward persons providing information leading to the location of any child listed in the missing children registry compiled pursuant to *former* Section 11114 of the Penal Code *or maintained pursuant to the system maintained pursuant to Sections 14201 and 14202 of the Penal Code*.

(b) Awards shall be made upon recommendation of the Department of Justice in an amount of not to exceed five hundred dollars ($500) to any one individual. However, as a condition to an award, in any particular case, an amount equal to or greater in

nonstate funds shall have been first offered as a reward for information leading to the location of that missing child.

(c) The Missing Children Reward Fund is hereby created in the State Treasury and is continuously appropriated to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* to make awards pursuant to this section.

SEC. 262. Section 14084 of the Government Code is amended to read:

14084. If at any time, in carrying out any agreement made pursuant to Section 14081, the required payment of reimbursements becomes a matter in dispute ~~which~~ *that* cannot be resolved by the governing body and the director, it shall be brought before the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, which shall conduct the necessary audits and interviews to determine the facts, hear both parties to the dispute, and make a final determination as to the reimbursement actually due.

SEC. 263. Section 14670.4 of the Government Code is amended to read:

14670.4. ~~(a)~~ The Director of General Services may, subject to the approval of the State Public Works Board, enter into an agreement or agreements whereby the state will acquire all interest of its concessionaire at Squaw Valley, the Squaw Valley Improvement Corporation, in exchange for an approximately 400-acre portion of land at the former Stockton State Hospital farm declared surplus by the Legislature in 1953, the sale of an additional portion of ~~such~~ *the* land, and an option to purchase the remaining portion for its fair market value.

SEC. 264. Section 14682 of the Government Code is amended to read:

14682. (a) Final determination of the use of existing state-owned and state-leased facilities that are currently under the jurisdiction of the Department of General Services by state agencies shall be made by the Department of General Services.

(b) A request of an agency that is required to be made to and approved by the Department of General Services to acquire new facilities through lease, purchase, or construction shall first consider the utilization of existing state-owned, state-leased, or state-controlled facilities before considering the leasing of

additional facilities on behalf of a state agency. If no available appropriate state facilities exist, the Department of General Services shall procure approved new facilities for the agency that ~~meets~~ *meet* the agency's needs using cost efficiency as a primary criterion, among other agency-specific criteria, as applicable.

(c) When tenant state agencies located in existing state-owned or state-leased facilities vacate their premises, they shall continue paying rent for the facilities unless and until a new tenant can be assigned or until the Department of General Services can negotiate a mutual termination of the lease. If the department generates the tenant's relinquishment, or if the tenant is vacating in accordance with the provisions of its lease agreement, the tenant shall not be obligated to pay rent after vacating the premises.

SEC. 265. Section 15202 of the Government Code is amended to read:

15202. *(a)* A county ~~which~~ *that* is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) The Controller shall not reimburse any county for costs that exceed the ~~State Board of Control's~~ *California Victim Compensation and Government Claims Board's* standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures. Nothing in this section shall permit the reimbursement of costs for travel in excess of 1,000 miles on any single round trip, without the prior approval of the Attorney General.

~~This section shall become operative on January 1, 2005.~~

SEC. 266. Section 15492 of the Government Code is amended to read:

15492. (a) The Department of General Services shall assign one full-time position within the Office of Public School Construction to the performance of the following functions:

(1) Providing advisory assistance to school districts regarding the process of site acquisition for projects for which the State

Allocation Board has approved funding under Chapter ~~22~~ *1* (commencing with Section ~~17700)~~ *17210)* of Part ~~10~~ *10.5* of the Education Code.

(2) Formulating recommendations for administrative or statutory revision to the manner in which school sites are acquired under Chapter ~~22~~ *1* (commencing with Section ~~17700)~~ *17210)* of Part ~~10~~ *10.5* of the Education Code, and submitting those recommendations to the State Allocation Board.

(b) The Department of General Services shall establish a screening unit or other mechanism within the Office of Public School Construction to ensure that the office responds in a timely manner to any inquiry regarding the status of an application for project funding under Chapter ~~22~~ *1* (commencing with Section ~~17700)~~ *17210)* of Part ~~10~~ *10.5* of the Education Code.

(c) The requirements set forth in this section shall not increase the staffing level of the Office of Public School Construction, as that staffing level existed on the operative date of this section.

SEC. 267. Section 15815 of the Government Code is amended to read:

15815. (a) The plans and specifications for any public building constructed pursuant to this part shall be prepared by the Department of General Services, and the board shall reimburse the department for the costs of its services from the funds available for that purpose. Any public building constructed under this part shall be constructed in accordance with the State Contract Act.

(b) Subdivision (a) does not apply to any public building constructed by, or on behalf of, the board for lease-purchase by the board to, or in connection with, a contract between the board and any of the following entities:

(1) The Regents of the University of California, if the public building is constructed under Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code.

(2) The Trustees of the California State University, if the public building is constructed under Chapter 2.5 (commencing with Section 10700) of Part 2 of Division 2 of the Public Contract Code.

(3) A community college district, if the building is constructed under Article ~~47~~ *41* (commencing with Section 20650) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

(c) Subdivision (a) does not apply to any public building constructed with the Administrative Office of the Courts serving as the implementing agency under subdivision (b) of Section 70374.

SEC. 268. Section 15952 of the Government Code is amended to read:

15952. (a) Centralized administration of consolidated social service transportation services shall utilize, to the maximum extent possible, existing public and private administrative capabilities and expertise. Utilization of existing administrative capabilities and expertise shall not require employment of those public and private administrative personnel nor shall it preclude any consolidated agency from developing a necessary administrative organization.

(b) Efficient and continual use of all existing sources of funding, utilized prior to the enactment of this part for social service transportation services, shall, to the maximum extent possible, be continued. Social service agencies participating in consolidation or coordination shall continue to maintain funding levels for consolidated services necessary to meet the transportation needs of their social service consumers. Rescinding or eliminating funding for consolidated services by any participating agency shall require cancellation of service to the agency's consumers by the consolidated agency. Cancellation of ~~such~~ *the* service shall not be required if ~~recission~~ *rescission* or elimination of funding occurs because of a program change with respect to the source of funding.

(c) Consolidation of social service transportation services shall, to the maximum extent possible, utilize existing agency operating and maintenance personnel and expertise. Effective use of employees of participating agencies shall be achieved without mandating that ~~such~~ *the* employees become directly employed by the designated consolidated agency.

(d) Consolidation of existing social service transportation services shall more appropriately be achieved if local elected officials are involved in the process. Local elected officials shall, to the maximum extent possible, be involved in the development

of the action plans and other local actions necessary for the successful implementation of this part.

SEC. 269. Section 16302.1 of the Government Code is amended to read:

16302.1. *(a)* Whenever any person pays to any state agency pursuant to law an amount covering taxes, penalties, interest, license, or other fees, or any other payment, and it is subsequently determined by the state agency responsible for the collection thereof that this amount includes an overpayment of ten dollars ($10) or less of the amount due the state pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of the overpayment may be disposed of in either of the following ways:

~~(a)~~

(1) The state agency responsible for the collection to which the overpayment relates may apply the amount of the overpayment as a payment by the person on any other taxes, penalties, interest, license, or other fees, or any other amount due the state from that person if the state agency is responsible by law for the collection to which the overpayment is to be applied as a payment.

~~(b)~~

(2) Upon written request of the state agency responsible for the collection to which the overpayment relates, the amount of the overpayment shall, on order of the Controller, be deposited as revenue in the fund in the State Treasury into which the collection, exclusive of overpayments, is required by law to be deposited.

(b) The~~ State Board of Control~~ *California Victim Compensation and Government Claims Board* may adopt rules and regulations to permit state agencies to retain these overpayments where a demand for refund permitted by law is not made within six months after the refund becomes due, and the retained overpayments shall belong to the state.

(c) Except as provided in~~ the foregoing paragraph~~ *subdivision (b)*, this section shall not affect the right of any person making overpayment of any amount to the state to make a claim for refund of the overpayment, nor the authority of any state agency or official to make payment of any amount so claimed, if otherwise authorized by law.

SEC. 270. Section 16304.6 of the Government Code is amended to read:

16304.6. Within the time during which the appropriation is available for expenditure, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* at the request of the director of the department concerned and with the approval of the Director of Finance, may authorize that unneeded funds in any appropriation for the support of an institution, school, or college or for family care or private home care or for parole supervision activities within any of the following departments shall be available and be deemed appropriated for the support of any institution, school, or college or for family care or private home care or for parole supervision activities within the same department:

(a) Department of Corrections *and Rehabilitation*.

(b) Department of the Youth Authority.

(c) State Department of Education.

(d) State Department of Mental Health.

SEC. 271. Section 16366.3 of the Government Code is amended to read:

16366.3. Federal block grant legislation provides that, for the first fiscal year, states have the option to accept or reject designated block grants. Consistent with this federal policy, the state shall, prior to July 1, 1982, accept only those block grants ~~which~~ *that* meet all of the following criteria:

(a) The block grant includes programs and services ~~which~~ *that* the state has ~~previous~~ *previously* administered.

(b) The block grant program, and funding, has been previously integrated into state and local service systems.

(c) The block grant program does not require increased state or local matching funds.

(d) There is a distinct advantage as a result of state assumption.

SEC. 272. Section 16383 of the Government Code is amended to read:

16383. Warrants may be drawn by the Controller against the General Cash Revolving Fund, to the extent of the amounts available, in accordance with demands audited pursuant to law and rules and regulations prescribed from time to time by the ~~Board of Control~~ *California Victim Compensation and*

Government Claims Board, and also to meet other payments provided by law to be made from the General Fund. The Treasurer may pay from the General Cash Revolving Fund the warrants so drawn.

SEC. 273. Section 16431 of the Government Code is amended to read:

16431. *(a)* Notwithstanding any other provisions of this code, funds held by the state pursuant to a written agreement between the state and employees of the state to defer a portion of the compensation otherwise receivable by the state's employees and pursuant to a plan for ~~such~~ *that* deferral as adopted by the state and approved by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, may be invested in the types of investments set forth in Sections 53601 and 53602 ~~of this code~~, and may additionally be invested in corporate stocks, bonds, and securities, mutual funds, savings and loan accounts, credit union accounts, annuities, mortgages, deeds of trust, or other security interests in real or personal property. Nothing ~~herein~~ *in this section* shall be construed to permit any type of investment prohibited by the *California* Constitution.

(b) Deferred compensation funds are public pension or retirement funds for the purposes of Section ~~42~~ *17* of Article ~~XIII~~ *XVI* of the *California* Constitution.

SEC. 274. Section 16585 of the Government Code is amended to read:

16585. (a) A city, county, or city and county may sell or transfer part or all of its accounts receivable to a private debt collector or private persons or entities, provided the city, county, or city and county notifies the debtor in writing at the address of record that the alleged accounts receivable debt will be turned over for private collection unless the debt is paid, or appealed within a time period, as determined by the city, county, or city and county providing the notice.

(b) No city, county, or city and county shall assign or sell any account receivable pursuant to subdivision (a) if the account receivable debt *has* been contested.

SEC. 275. Section 17051.5 of the Government Code is amended to read:

17051.5. A state agency shall notify the Treasurer not to pay a warrant drawn by the Controller upon that agency's request whenever that agency has reason to believe that the Controller has drawn or is about to draw his or her warrant without legal authority, for a larger amount than is owed by the state, or in a manner not in conformity with the regulations adopted by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for the presentation and audit of claims. Upon notification from a state agency as described in this section, the Treasurer shall refuse payment of the subject warrant until he or she is otherwise directed by the agency or the Legislature.

SEC. 276. Section 17201 of the Government Code is amended to read:

17201. The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* may make rules and regulations governing the issuance and sale of registered warrants.

SEC. 277. Section 17520 of the Government Code is amended to read:

17520. "Special district" means any agency of the state that performs governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. "Special district" does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter ~~2~~ *6* (commencing with Section ~~27151)~~ *19100* of ~~Division 20~~ *Part 11* of the Education Code, areas receiving county fire protection services pursuant to Section 25643 of the Government Code, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered "special districts" for all purposes of this part.

SEC. 278. Section 17553 of the Government Code is amended to read:

17553. (a) The commission shall adopt procedures for receiving claims pursuant to this article and for providing a

hearing on those claims. The procedures shall do all of the following:

(1) Provide for presentation of evidence by the claimant, the Department of Finance, and any other affected department or agency, and any other interested person.

(2) Ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim, when a determination is made by the commission that a mandate exists. This deadline may be extended for up to six months upon the request of either the claimant or the commission.

(3) Permit the hearing of a claim to be postponed at the request of the claimant, without prejudice, until the next scheduled hearing.

(b) All test claims shall be filed on a form prescribed by the commission and shall contain at least the following elements and documents:

(1) A written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate and shall include all of the following:

(A) A detailed description of the new activities and costs that arise from the mandate.

(B) A detailed description of existing activities and costs that are modified by the mandate.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(F) Identification of all of the following:

(i) Dedicated state funds appropriated for this program.

(ii) Dedicated federal funds appropriated for this program.

(iii) Other nonlocal agency funds dedicated for this program.

(iv) The local agency’s general purpose funds for this program.

(v) Fee authority to offset the costs of this program.

(G) Identification of prior mandate determinations made by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* or the Commission on State Mandates that may be related to the alleged mandate.

(2) The written narrative shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so, as follows:

(A) Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

(B) Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

(C) Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program. Specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program.

(3) (A) The written narrative shall be supported with copies of all of the following:

(i) The test claim statute that includes the bill number or executive order, alleged to impose or impact a mandate.

(ii) Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate.

(iii) Administrative decisions and court decisions cited in the narrative.

(B) State mandate determinations made by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* and the Commission on State Mandates and published court decisions on state mandate determinations made by the Commission on State Mandates are exempt from this requirement.

(4) A test claim shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and

complete to the best of the declarant's personal knowledge ~~or~~, information, or belief. The date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address shall be included.

(c) If a completed test claim is not received by the commission within 30 calendar days from the date that an incomplete test claim was returned by the commission, the original test claim filing date may be disallowed, and a new test claim may be accepted on the same statute or executive order.

(d) In addition, the commission shall determine whether an incorrect reduction claim is complete within 10 days after the date that the incorrect reduction claim is filed. If the commission determines that an incorrect reduction claim is not complete, the commission shall notify the local agency and school district that filed the claim stating the reasons that the claim is not complete. The local agency or school district shall have 30 days to complete the claim. The commission shall serve a copy of the complete incorrect reduction claim on the Controller. The Controller shall have no more than 90 days after the date the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

SEC. 279. Section 17556 of the Government Code is amended to read:

17556. The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds ~~that~~ *any one of the following*:

(a) The claim is submitted by a local agency or school district that requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this ~~paragraph~~ *subdivision*.

(b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

SEC. 280. Section 18708 of the Government Code is amended to read:

18708. The board shall cooperate with the Director of Finance, the Department of Personnel Administration, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, the Controller, and other state agencies, in matters not covered by this part, and not inconsistent ~~herewith~~ *with this part*, to promote the efficient and economical administration of the state's business.

SEC. 281. Section 19583.5 of the Government Code is amended to read:

19583.5. (a) Any person, except for a current ward of the ~~California Youth Authority~~ *Division of Juvenile Facilities*, a current inmate of the Department of Corrections *and Rehabilitation*, or a current patient of a facility operated by the State Department of Mental Health, with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. Charges filed by a person who is a state employee shall not include issues covered by the state's employee grievance or other merit appeals processes. Any request of the board to file charges pursuant to this section shall be filed within one year of the event or events that led to the filing. The employee against whom the charges are filed shall have a right to answer as provided in this article. In all of these cases, a hearing shall be conducted in accord with this article and if the board finds that the charges are true it shall have the power to take any adverse action as in its judgment is just and proper. An employee who has sought to bring a charge or an adverse action against another employee using the grievance process, shall first exhaust that administrative process prior to bringing the case to the board.

(b) This section shall not be construed to supersede Section 19682.

SEC. 282. Section 19583.51 of the Government Code is amended to read:

19583.51. (a) Effective January 1, 1996, notwithstanding Section 19583.5, this section shall only apply to state employees in State Bargaining Unit 5. Any person, except for a current ward of the ~~California Youth Authority~~ *Division of Juvenile Facilities*, a current inmate of the Department of Corrections *and Rehabilitation*, or a current patient of a facility operated by the State Department of Mental Health, with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. Any request of the board to file charges pursuant to this section shall be filed within one year of the event or events that led to the filing. The employee against whom the charges are filed shall have a right to answer as

provided in this article. In all of these cases, a hearing shall be conducted in accordance with this article and if the board finds that the charges are true it shall have the power to take any adverse action as in its judgment is just and proper.

(b) This section shall not be construed to supersede Section 19682.

(c) Any adverse action, as defined by Section 19576.1, that results from a request to file charges pursuant to this section, is subject to the appeal procedures in Section 19576.1.

SEC. 283. Section 19792.5 of the Government Code is amended to read:

19792.5. (a) In order to permit the public to track upward mobility and the impact of equal opportunities on persons, categorized by race, ethnicity, gender, and disability in state civil service, the State Personnel Board shall annually track, by incremental levels of ten thousand dollars ($10,000), the salaries of persons, categorized by race, ethnicity, gender, and disability, in state civil service. For purposes of this subdivision, "upward mobility" means the advancement of persons, categorized by race, ethnicity, gender, and disability, to better paying and higher level positions.

(b) The board shall report salary data collected pursuant to subdivision (a) to the Governor and the Legislature in its Annual Census of State Employees and Equal Employment Opportunity Report, as required in Section 19793, and shall include in this report information regarding the progress of individuals by race, ethnicity, ~~and~~ gender, *and disability* in attaining high-level positions in state employment. The salary data shall be reported in annual increments of ten thousand dollars ($10,000) by job category, race, ethnicity, gender, and disability in a format easily understandable by the public.

SEC. 284. Section 19815.4 of the Government Code is amended to read:

19815.4. The director shall *do all of the following*:

(a) Be responsible for the management of the department.

(b) Administer and enforce the laws pertaining to personnel.

(c) Observe and report to the Governor on the conditions of the nonmerit aspects of personnel.

(d) Formulate, adopt, amend, or repeal rules, regulations, and general policies affecting the purposes, responsibilities, and

jurisdiction of the department and ~~which~~ *that* are consistent with the law and necessary for personnel administration.

All regulations relating to personnel administration heretofore adopted pursuant to this part by the State Personnel Board, ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, Department of General Services, and the Department of Finance, and in effect on the operative date of this part, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

(e) Hold hearings, subpoena witnesses, administer oaths, and conduct investigations concerning all matters relating to the department's jurisdiction.

(f) Act on behalf of the department and delegate powers to any authorized representative.

(g) Serve as the Governor's designated representative pursuant to ~~the provisions of~~ Section 3517.

(h) Perform ~~such~~ *any* other duties ~~as~~ *that* may be prescribed by law, and ~~such~~ *any* other administrative and executive duties ~~as~~ *that* have by other provisions of law been previously imposed.

SEC. 285. Section 19816 of the Government Code is amended to read:

19816. *(a)* Except as provided by Section 19816.2, the department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board with respect to the administration of salaries, hours, and other ~~personnel related~~ *personnel-related* matters, training, performance evaluations, and layoffs and grievances.

(b) The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* and the Department of General Services with respect to the administration of miscellaneous employee entitlements.

(c) The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the Department of Finance with respect to the administration of salaries of employees exempt from civil service and within range salary adjustments.

SEC. 286. Section 19816.4 of the Government Code is amended to read:

19816.4. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use by the State Personnel Board, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, the Department of General Services, and the Department of Finance in the performance of the duties, powers, purposes, responsibilities, and jurisdiction that are vested in the department by Section 19816.

SEC. 287. Section 19816.6 of the Government Code is amended to read:

19816.6. All officers and employees of the State Personnel Board, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, the Department of General Services, and the Department of Finance, who, on the operative date of this part, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 19816 shall be transferred to the department. The status, positions, and rights of ~~such~~ *these* persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 288. Section 19879.1 of the Government Code is amended to read:

19879.1. (a) For the purpose of this section, an eligible employee is an employee defined by Section 19858.3.

(b) Notwithstanding any other provision of this article, an eligible employee who has enrolled in the annual leave program under Article 2.5 (commencing with Section 19858.3) shall receive nonindustrial disability leave benefits in accordance with all of the following:

(1) A disabled employee shall be eligible to receive Nonindustrial Disability Insurance benefits in an amount equal to one-half full pay, 50 percent of gross salary.

(2) A disabled employee shall be eligible to receive Nonindustrial Disability Insurance benefits without being required to use any sick leave accrued under Article 3 (commencing with Section 19859) or annual leave accrued under Article 2.5 (commencing with Section 19858.3) unless the

employee, in his or her sole discretion, elects to use sick leave or annual leave in lieu of receiving benefits.

(3) If the employee elects to use sick leave or annual leave credits prior to receiving Nonindustrial Disability Insurance payments, he or she shall not be required to exhaust the accrued leave balance.

(4) Following the start of Nonindustrial Disability Insurance payments, an employee may at any time change from the receipt of Nonindustrial Disability Insurance payments to the utilization of sick leave or annual leave. Once ~~such an~~ *this* election is made, the employee may not recommence receiving Nonindustrial Disability Insurance payments until that leave is exhausted.

(5) In accordance with the state's return to work policy, an employee who is eligible to receive Nonindustrial Disability Insurance benefits and who is medically certified as unable to return to his or her full-time work during the period of his or her disability, may, with medical approval, and at the discretion of his or her appointing power, work up to the number of hours, in hour increments, which when combined with his or her Nonindustrial Disability Insurance benefits will result in a salary ~~which~~ *that* does not exceed 100 percent of his or her regular full pay.

(6) If an employee refuses to return to work in a position offered by the employer under the state's Injured State Worker Assistance Program, Nonindustrial Disability Insurance benefits shall be terminated effective as of the date of the offer.

(7) An employee may with his or her department head's approval elect to supplement Nonindustrial ~~Disablity~~ *Disability* Insurance benefits with sick or annual leave up to 100 percent of his or her regular full pay.

SEC. 289. Section 19999.2 of the Government Code is amended to read:

19999.2. (a) The Legislature hereby finds and declares that this chapter is intended to satisfy the requirements prescribed by the Omnibus Budget Reconciliation Act of 1990 (OBRA). Section 3121(b)(7)(F) of the Internal Revenue Code requires that state employees who are not members of the Public Employees' Retirement System must be covered by social security, or, in the alternative, be provided benefits through a qualified pension or annuity program, effective with compensated services rendered

on or after July 2, 1991. Therefore, the Legislature hereby authorizes the development of a retirement program under the State's Deferred Compensation Plan, the Savings Plan, or any other acceptable defined contribution plan in which state employees can defer compensation at 7.5 percent of wages, as the term "wages" is defined for social security purposes.

(b) "State employees," as used in subdivision (a), includes the employees defined in Section 19815, as well as employees of the California State University, who are not covered by social security or by the Public Employees' Retirement System.

(c) This section shall not apply to employees of the California State University unless and until the trustees ~~authorizes~~ *authorize* their coverage in this retirement program.

(d) In the event that the retirement program authorized by this section is inconsistent with federal laws or rules or becomes unnecessary under the state or federal law, this section shall become inoperative.

SEC. 290. Section 20035.6 of the Government Code is amended to read:

20035.6. Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 19, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003–04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that ~~5 percent~~ *5-percent* reduction had not occurred. This section shall ~~only~~ apply *only* if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

SEC. 291. Section 20094 of the Government Code is amended to read:

20094. The counsel to the board shall notify each new member of the board upon his or her assumption of office and each member of the board annually that he or she is subject to the

gift provisions of~~,~~ Chapter 9.5 (commencing with Section 89500) of Title 9.

SEC. 292. Section 20163 of the Government Code is amended to read:

20163. *(a)* If more or less than the correct amount of contribution required of members, the state, or any contracting agency, is paid, proper adjustment shall be made in connection with subsequent payments, or the adjustments may be made by direct cash payments between the member, state, or contracting agency concerned and the board or by adjustment of the employer's rate of contribution. Adjustments to correct any other errors in payments to or by the board, including adjustments of contributions, with interest, that are found to be erroneous as the result of corrections of dates of birth, may be made in the same manner. Adjustments to correct overpayment of a retirement allowance may also be made by adjusting the allowance so that the retired person or the retired person and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled. Losses or gains resulting from error in amounts within the limits set by the *California* Victim Compensation and Government Claims Board for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoff by the *California* Victim Compensation and Government Claims Board, shall be debited or credited, as the case may be, to the reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(b) No adjustment shall be made because less than the correct amount of normal contributions was paid by a member if the board finds that the error was not known to the member and was not the result of erroneous information provided by him or her to this system or to his or her employer~~ and the~~. *The* failure to adjust shall not preclude action under Section 20160 correcting the date upon which the person became a member.

(c) The actuarial equivalent under this section shall be computed on the basis of the mortality tables and actuarial interest rate in effect under this system on December 1, 1970, for retirements effective through December 31, 1979. Commencing with retirements effective January 1, 1980, and at corresponding 10-year intervals thereafter, or more frequently at the board's

discretion, the board shall change the basis for calculating actuarial equivalents under this article to agree with the interest rate and mortality tables in effect at the commencement of each 10-year or succeeding interval.

SEC. 293. Section 20462 of the Government Code is amended to read:

20462. The governing body of a public agency that has established a pension trust or retirement plan funded by individual or group life insurance or annuity contracts may, notwithstanding any provision of this part to the contrary, enter into a contract to participate in this system making its employees members of this system, and continue the trust or plan with respect to service rendered prior to the contract date. A pension trust or retirement plan so continued shall be deemed not a local retirement, pension, or annuity fund or system for the purpose of ~~any provision of~~ this chapter. The public agency shall have all the rights of any other contracting agency to provide prior service benefits for its employees but may elect in the contract instead not to provide a benefit with respect to prior service, in which case the service rendered by its employees prior to *the* contract date shall be deemed not to be state service.

SEC. 294. Section 20805 of the Government Code is amended to read:

20805. As used in determining the state's contribution, "compensation paid" includes the compensation a member absent on military service would have received were it not for his or her absence ~~is~~ *in* that service, if the normal contributions for the period of absence are made. The rate of his or her compensation shall be his or her compensation at the commencement of his or her absence. The percentages of state contribution specified in this chapter apply to all compensation upon the basis of which ~~member's~~ *members'* contributions are deducted after those percentages became or become effective, without regard to the time when the service was rendered for which the compensation is paid.

SEC. 295. Section 20808 of the Government Code is amended to read:

20808. (a) The actuary may, in determining contributions required of contracting agencies, establish a contribution with respect to industrial disability allowances, special death benefits,

and any other death benefit, singly or in any combination, separate from and independent of the contribution required for other benefits under their contracts. The total contribution, in that case, for the agencies as a group shall be established and from time to time adjusted by actuarial valuation performed by the actuary of the liability for the benefit or benefits on account of the employees of all those agencies. Adjustments shall affect only future contributions and shall take into account the difference between contributions on hand and the amount required to fund the allowances or benefits for which entitlement has already been established as well as liability for future entitlements to benefits. The contribution as so established and adjusted from time to time shall be allocated between the agencies on a basis that, in the opinion of the board, after recommendation of the actuary, provides an equitable distribution between the agencies. However, the allocation shall not be based on differences in the incidence of death or disability in the respective agencies.

(b) *(1)* Whenever the board, pursuant to subdivision (a), establishes a separate contribution, it shall maintain the contribution and any contributions required to be made by employees towards the cost of the benefit or benefits as a separate account, which shall be available only for payment of the benefit or benefits and shall not be a part of the accumulated contributions under this system of any of the employers or members included.

(2) All contributions in that account, irrespective of the agency from which they were received, shall be available for payment of the benefit or benefits with respect to the employees of any agency included~~, and in~~. *In* the event of termination of any ~~the~~ agency's participation in this system, the liability with respect to all those benefits to which the agency's employees have become entitled, after establishment of the rate and prior to the termination, shall be its contributions, as established under subdivision (a),~~ which~~ *that* have become due and payable as of the date of termination.

SEC. 296. Section 21095 of the Government Code is amended to read:

21095. (a) Participation in the plan afforded by this article shall be made available to any employee who was included in the

federal system and who was a member of this system prior to the effective date of the employer's contract amendment to be subject to this article. The election shall be irrevocable, shall be effective on the first *day* of the pay period following the member's election, and shall apply to all future service rendered by the member with that agency. Each contracting agency shall ensure each eligible member receives sufficient information to permit an informed election, is counseled regarding the benefits provided by this article, and receives an election document. The election document shall be filed with the contracting agency, and the contracting agency shall report the member's irrevocable election to the board.

(b) A member subject to this article shall be subject to all other provisions of this part. However, in the event of a conflict, this article shall supersede and prevail over other provisions contained in this part.

SEC. 297. Section 21223 of the Government Code is amended to read:

21223. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided under this system upon approval of the Director of *the Department of* Personnel Administration or the governing body of a contracting agency, as the case may be, under employment by any state or contracting agency in which he or she previously served while a member of this system, where by reason of actual litigation, or a proceeding before the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* or the governing body of a contracting agency, as the case may be, or where the state or contracting agency desires to perpetuate testimony in connection with any anticipated litigation involving the state or contracting agency, and adverse interests, the services of the person are or may be necessary in preparing for trial or in testifying as to matters within or based upon his or her knowledge acquired while employed. He or she may be paid a per diem and actual and necessary traveling expenses, but he or she shall not be paid at a greater rate of compensation per diem than the rate ordinarily paid other persons by state agencies or the contracting agency for similar services. However, there shall be deducted from the per diem compensation sums equal to the

retirement annuity allocable to the days of actual employment under this section.

SEC. 298. Section 21265 of the Government Code is amended to read:

21265. Retired members of this system, and beneficiaries who are entitled to receive allowances or benefits under ~~the provisions of~~ this part, may authorize deductions to be made from their retirement allowance payments or from the allowances and benefits, respectively, or from either or both ~~where~~ *when* both are being received in accordance with regulations established by the board for the payment of charitable contributions under any plan approved by the board. In lieu of approving individual plans, the board, at its discretion, may adopt by reference those plans approved by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* under Section 13923. The board shall determine the additional cost involved in making deductions under this section, and the agency to receive the contributions shall pay the amount of the additional cost to the board for deposit in the retirement fund.

SEC. 299. Section 21752 of the Government Code is amended to read:

21752. (a) (1) In accordance with Section 21756, a member's annual retirement benefits, adjusted to the actuarial equivalent of a straight-life annuity if payable in a form other than a straight-life annuity or a qualified joint and survivor annuity as provided under Section 21460, and determined without regard to any employee contributions or rollover contributions, as defined in Sections 402(a)(5), 403(a)(4), and ~~408(d)(3))~~ *408(d)(3)* of Title 26 of the United States Code, otherwise payable to the member under Part 3 (commencing with Section 20000) and under any other defined benefit plan maintained by the employer that is subject to Section 415 of Title 26 of the United States Code, shall not exceed, in the aggregate, the dollar limit applicable pursuant to Section 415(b)(1)(A) of Title 26 of the United States Code~~;~~, as appropriately modified by Section 415(b)(2)(F) and (G) of Title 26 of the United States Code.

(2) However, the annual retirement benefit payable to a member shall be deemed not to exceed the limitations prescribed in paragraph (1) if the benefit does not exceed ten thousand

dollars ($10,000) and the member has at no time participated in a tax qualified defined contribution plan maintained by the employer.

(b) These limitations shall be applied pursuant to Section 415(b)(10) of Title 26 of the United States Code.

(c) Part 3 (commencing with Section 20000) shall be construed as if it included this section.

SEC. 300. Section 22100 of the Government Code is amended to read:

22100. *(a)* For all purposes under this part, the following group of employees shall constitute a separate coverage group~~:~~

~~(a) Civilian~~ *: civilian* employees of National Guard units of the ~~State~~ *state* who are employed pursuant to Section 90 of the National Defense Act of June 3, 1916 (32 U.S.C.~~; Section~~ *Sec.* 42), and paid from funds allotted to ~~such~~ *those* units by the Department of Defense. ~~The~~

(b) The Adjutant General may enter into an agreement with the board pursuant to Section 22203 for the purpose of obtaining coverage under the federal system for ~~such~~ *these* employees.

SEC. 301. Section 26749 of the Government Code is amended to read:

26749. The sheriff shall receive expenses necessarily incurred in conveying insane persons to and from the state hospitals and in conveying persons to and from the state prisons or other state institutions, or to other destinations for the purpose of deportation to other states, or in advancing actual traveling expenses to any person committed to a state institution who is permitted to report to an institution without escort, which expenses shall be allowed as provided by Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 of the Penal Code for cases subject to that chapter, and, otherwise, by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* and paid by the state.

SEC. 302. Section 29965 of the Government Code is amended to read:

29965. Unless prevented by petition protesting the passage of the ordinance, signed and filed with the board pursuant to Division ~~4~~ *9 (commencing with Section 9000)* of the Elections Code, the bonds shall be publicly canceled at the time and place fixed, and the clerk of the board of supervisors shall enter on the

minutes of the board of supervisors a record of the bonds canceled sufficient to identify them and the fact and date of the cancellation.

SEC. 303. Section 31461.1 of the Government Code is amended to read:

31461.1. (a) This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(b) Notwithstanding Sections 31460 and ~~Section~~ 31461, neither "compensation" nor "compensation earnable" shall include any of the following: cafeteria or flexible benefit plan contributions, transportation allowances, car allowances, or security allowances, as enumerated in a resolution adopted pursuant to subdivision (c).

(c) Except as provided in subdivision (d), this section shall not be operative until the board of supervisors, by resolution adopted by a majority vote, makes this section operative with respect to any employee who becomes a member after the effective date of the ~~resolution .~~ *resolution.*

(d) Regardless of whether it has acted pursuant to subdivision (c), at any time the board of supervisors, by separate resolution adopted by a majority vote, may make this section operative with respect to any member not represented by a certified employee organization who makes an irrevocable election to become subject to this section.

(e) Nothing in this section shall be construed to affect any determination made by the board of retirement, pursuant to Section 31461, prior to the effective date of this section.

(f) Nothing in this section shall be construed to affect the validity of any memorandum of understanding or similar agreement that has been executed prior to the effective date of this section.

SEC. 304. Section 31469 of the Government Code is amended to read:

31469. (a) "Employee" means any officer or other person employed by a county whose compensation is fixed by the board of supervisors or by statute and whose compensation is paid by the county, and any officer or other person employed by any district within the county.

(b) "Employee" includes any officer or attaché of any superior court ~~or municipal court which~~ *that* has been brought within the operation of this chapter.

(c) "Employee" includes any officer or other person employed by a district as defined in subdivision (c) of Section 31468 and whose compensation is paid from funds of the district.

(d) "Employee" includes any member paid from the county school service fund who elected pursuant to ~~Education Code~~ Section ~~873.1~~ *1313 of the Education Code* to remain a member of this system.

(e) "Employee" includes any person permanently employed by a local agency formation commission including the executive officer thereof.

SEC. 305. Section 31470.25 of the Government Code is amended to read:

31470.25. (a) All sheriffs, undersheriffs, assistant sheriffs, chief deputy sheriffs, captains, lieutenants, sergeants, jailers, turnkeys, deputy sheriffs, bailiffs, constables, deputy constables, motorcycle officers, aircraft pilots, detectives, and investigators in the office of the district attorney, and marshals and all regularly appointed deputy marshals, who are first so employed on or after the operative date of this section in a county, are eligible. This section is an alternative to Section 31470.2.

(b) This section shall apply only in a county of the second class, as defined by Sections 28020 and ~~28022~~ *28023*, as amended by Chapter 1204 of the Statutes of 1971.

(c) This section shall not be operative in a county unless and until the board of supervisors ~~shall~~, by resolution adopted by a majority vote, makes this section operative in that county.

SEC. 306. Section 31485.12 of the Government Code is amended to read:

31485.12. (a) Notwithstanding any other provision of law, in a county of the 16th class, as defined in Sections 28020 and 28037, or a county of the 22nd class, as defined in Sections 28020 and 28043, each as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may, by resolution, ordinance, contract, or contract amendment under this chapter, provide different retirement benefits for some safety member bargaining units within the safety member classification of a county retirement system.

(b) The resolution, ordinance, contract, or contract amendment described in subdivision (a) may provide a different formula for calculation of retirement benefits, by making any section of this chapter *that is* applicable to different safety *member* bargaining units within the safety member classification, applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted. The terms of an agreement or memorandum of understanding reached with a recognized employee organization, pursuant to this subdivision, may be made applicable by the board of supervisors to any unrepresented group within the same or similar membership classification as the employees represented by the recognized employee organization or bargaining unit.

(c) A resolution, ordinance, contract, or contract amendment adopted pursuant to this section may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (b), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution, ordinance, contract, or contract amendment. The payment by a member shall become part of the accumulated contributions of the member. For those members who are represented by a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors and the employee representatives.

(d) This section shall only apply to members who retire on or after the effective date of the resolution, ordinance, contract, or contract amendment described in subdivision (a) or (b), or on or after the date provided in the memorandum of understanding described in subdivision (c).

(e) The board of supervisors, in the resolution, ordinance, contract, or contract amendment described in subdivision (a), shall not require that a bargaining unit be divided solely for the purpose of providing different retirement benefits. However, if the members of a bargaining unit within the same or similar membership classification so elect, retirement benefits may be separately negotiated with that bargaining unit.

(f) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted

statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 307. Section 31585.1 of the Government Code is amended to read:

31585.1. When an employee paid from the county school service fund elects to remain a member of this retirement system as authorized by ~~Education Code~~ Section ~~873.1~~ *1313 of the Education Code*, the same appropriations, transfers, and disposition of funds shall be made as those required of the county by this article, and ~~such~~ *those* charges are legal charges against the funds of the county school service fund.

SEC. 308. Section 31691 of the Government Code is amended to read:

31691. *(a)* The board of supervisors of any county by ordinance, or the governing body of any district under the County Employees Retirement Law ~~may~~, by ordinance or resolution, *may* provide for the contribution by the county or district from its funds and not from the retirement fund, toward the payment of all or a portion of the premiums on a policy or certificate of life insurance or disability insurance issued by an admitted insurer, or toward the payment of all or part of the consideration for any hospital service or medical service corporation, including any corporation lawfully operating under Section 9201 of the Corporations Code, contract, or for any combination thereof, for the benefit of any member heretofore or hereafter retired or his *or her* dependents. At least one of these plans shall include free choice of physician and surgeon.

(b) The benefits provided by this section are in addition to any other benefits provided by this chapter ~~(commencing with Section 31450)~~.

(c) The board of retirement may provide on behalf of a member who has retired, or~~,~~ an eligible surviving spouse who was married to the member for one year prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age, or under ~~the age of~~ 22 *years of age* and full-time students, for the benefits enumerated herein from the earnings of the retirement fund ~~which~~ *that* are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. The board may provide for the

benefits enumerated from like sources when the board of supervisors or the governing body of a district has elected to provide these benefits to its active employees, even though ~~they~~ *the benefits* are not provided to those who have retired from the service of the county or district.

(d) Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section, ~~of Article 5.5 (commencing with Section 31510) of this chapter,~~ the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section ~~31510.8~~ *31618*.

SEC. 309. Section 31691.1 of the Government Code is amended to read:

31691.1. *(a)* In lieu of the benefits prescribed by ~~the last paragraph~~ *subdivision (d)* of Section 31691, the board of retirement may provide on behalf of a member who has retired, or an eligible surviving spouse who was married to the member prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age, or under ~~the age of~~ 22 *years of age* and full-time students, for an equivalent increase in allowance from the earnings of the retirement fund ~~which~~ *that* are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. Any benefit provided by this section shall be subject to ~~the provisions of~~ Section 31692.

(b) Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section, ~~of Article 5.5 (commencing with Section 31510) of this chapter,~~ the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section ~~31510.8~~ *31618*.

SEC. 310. Section 45002 of the Government Code is amended to read:

45002. The system may include the librarian, secretary, and other officers and employees, except members of the board of trustees, of the public library established pursuant to Chapter ~~3~~ *5* (commencing with Section ~~27301)~~ *18900)* of ~~Division 20~~ *Part 11* of the Education Code.

SEC. 311. Section 54957.1 of the Government Code is amended to read:

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention *on that action* of every member present ~~thereon~~, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as ~~specified below~~ *follows*:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as ~~specified below~~ *follows*:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and

identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present

at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in ~~paragraph~~ *subdivision* (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

SEC. 312. Section 54999.5 of the Government Code is amended to read:

54999.5. Capital facilities fees paid by school districts for public utility facilities to serve school facilities for which an application for funding is filed on or after the effective date of this chapter may, for purposes of Chapter ~~22~~ *12* (commencing with Section ~~17700)~~ *17000)* of Part 10 ~~of Division 1 of Title 1~~ of the Education Code, be included by the State Allocation Board as a "cost of project" within the meaning of subdivision (b) of Section 17702 of the Education Code.

SEC. 313. Section 65050 of the Government Code is amended to read:

65050. (a) As used in this article, the following phrases have the following meanings:

(1) "Military base" means a military base that is designated for closure or downward realignment where real property will be made available for disposal pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526), the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510), or any subsequent closure or realignment approved by the President of the United States without objection by the Congress.

(2) "Effective date of a base closure" means the date a base closure decision becomes final under the terms specified by federal law. These decisions become final 45 legislative days after the date the federal Base Closure Commission submits its recommendations to the President, he or she approves those recommendations, and the Congress does not disapprove those recommendations or adjourns.

(b) It is not the intent of the Legislature in enacting this section to preempt local planning efforts or to supersede any existing or subsequent authority invested in the Office of Military and Aerospace Support. It is the intent of this article to provide a means of conflict resolution between local agencies vying to seek recognition from the United States Department of Defense's Office of Economic Adjustment as a single base reuse entity.

(c) For the purposes of this article, a single local base reuse entity shall be recognized pursuant to the regulations of the United States Department of Defense's Office of Economic Adjustment.

(d) The following entities or their successors, including, but not limited to, separate airport or port authorities, are recognized by the United States Department of Defense's Office of Economic Adjustment as the single local reuse entity for the *following* military bases ~~listed~~:

Military Base	Local Reuse Entity
George Air Force Base	Victor Valley Economic Development Authority
Hamilton Army Base	City of Novato
Mather Air Force Base	County of Sacramento
Norton Air Force Base	Inland Valley Development Authority

Presidio Army Base	City and County of San Francisco
Salton Sea Navy Base	Imperial County
Castle Air Force Base	County of Merced
Hunters Point Naval Annex	City and County of San Francisco
Long Beach Naval Station	City of Long Beach
MCAS Tustin	City of Tustin
Sacramento Army Depot	City of Sacramento
MCAS El Toro	Local redevelopment authority recognized by the United States Department of Economic Adjustment
March Air Force Base	March Joint Powers Authority
Mare Island Naval Shipyard	City of Vallejo
Naval Training Center, San Diego	City of San Diego
NS Treasure Island	City and County of San Francisco
NAS Alameda, San Francisco Bay Public Works Center, Alameda Naval Aviation Depot	Alameda Reuse and Redevelopment Authority
Oakland Military Complex	Oakland Base Reuse Authority
Fort Ord Army Base	Fort Ord Reuse Authority
Sierra Army Depot	County of Lassen

Any military base reuse authority created pursuant to Title 7.86 (commencing with Section 67800) that is recognized by the United States Department of Defense's Office of Economic Adjustment as the single local reuse entity for the specific military base.

(e) For any military base that is closed and not listed in subdivision (d), the United States Department of Defense's Office of Economic Adjustment will follow its established procedures in recognizing a single local reuse entity.

(f) If, after 60 days from the effective date of the base closure decision, a single local reuse entity cannot be recognized by the United States Department of Defense's Office of Economic Adjustment, the Director of the Office of Planning and Research, in consultation with the federal Office of Economic Adjustment, shall select a mediator, from a list submitted by the Office of Military and Aerospace Support containing no fewer than seven recommendations, to ~~affect~~ *effect* an agreement among the ~~effected~~ *affected* jurisdictions on a single local reuse entity acceptable to the federal Office of Economic Adjustment for recognition. In selecting a mediator, the director shall appoint a neutral person or persons, with experience in local land use issues, to facilitate communication between the disputants and assist them in reaching a mutually acceptable agreement prior to 120 days from the effective date of the base closure decision.

(g) As a last resort, and only if no recognition is made pursuant to the procedure specified in subdivisions (e) and (f) within 120 days after a base closure decision has become final or within 120 days after the date on which this section becomes operative, whichever date is later, the Office of Military and Aerospace Support shall hold public hearings, in consultation with the federal Office of Economic Adjustment, and recognize a single local base reuse entity for each closing base for which agreement is reached among the local jurisdictions with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800) on the base, or recommend legislation or action by the local agency formation commission if necessary to identify a single reuse entity that would be recognized by the federal Office of Economic Adjustment.

(h) In recognizing a single local reuse entity pursuant to subdivision (g), preference shall be given to existing entities and entities with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800).

(i) Any recognition of a single local reuse entity made pursuant to subdivision (f) or (g) shall be submitted by the Director of the Office of Planning and Research to the Governor, the Legislature, and the United States Department of Defense.

SEC. 314. Section 65852.9 of the Government Code is amended to read:

65852.9. (a) The Legislature recognizes that unused ~~school sites~~ *schoolsites* represent a potentially major source of revenue for school districts and that current law reserves a percentage of unused ~~school sites~~ *schoolsites* for park and recreational purposes. It is therefore the intent of the Legislature to ensure that unused ~~school sites~~ *schoolsites* not leased or purchased for park or recreational purposes pursuant to Article 5 (commencing with Section ~~39390)~~ *17485)* of Chapter ~~3~~ *4* of Part ~~20~~ *10.5* of the Education Code can be developed to the same extent as is permitted on adjacent property. It is further the intent of the Legislature to expedite the process of zoning ~~such~~ *the* property to avoid unnecessary costs and delays to the school district~~; however~~. *However*, school districts shall be charged for the administrative costs of ~~such~~ *this* rezoning.

(b) If all of the public entities enumerated in Section ~~39394~~ *17489* of the Education Code decline a school district's offer to sell or lease school property pursuant to Article 5 (commencing with Section ~~39390)~~ *17485* of Chapter ~~3~~ *4* of Part ~~23~~ *10.5* of the Education Code, the city or county having zoning jurisdiction over the property shall, upon request of the school district, zone the ~~school site~~ *schoolsite* as defined in Section 39392 of the Education Code, consistent with the provisions of the applicable general and specific plans and compatible with the uses of property surrounding the ~~school site~~ *schoolsite*. The ~~school site~~ *schoolsite* shall be given the same land use control treatment as if it were privately owned. In no event shall the city or county, prior to the school district's sale or lease of the ~~school site~~ *schoolsite*, rezone the site to open-space, park or recreation, or similar designation unless the adjacent property is so zoned, or if so requested or agreed to by the school district.

(c) A rezoning effected pursuant to this section shall be subject to any applicable procedural requirements of state law or of the city or county.

(d) A school district ~~which~~ *that* requests a zoning change pursuant to this section shall, in the fiscal year in which the city or county incurs costs in effecting the requested zoning change, reimburse the city or county for the actual costs incurred by it.

SEC. 315. Section 65971 of the Government Code is amended to read:

65971. (a) The governing body of a school district ~~which~~ *that* operates an elementary or high school shall notify the city council or board of supervisors of the city or county within which the school district is located if the governing body makes both of the following findings supported by clear and convincing evidence:

(1) That conditions of overcrowding exist in one or more attendance areas within the district ~~which~~ *that* will impair the normal functioning of educational programs, including the reason for the existence of those conditions.

(2) That all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing those conditions exist.

(b) *(1)* The notice of findings sent to the city or county pursuant to subdivision (a) shall specify the mitigation measures considered by the school district. The notice of findings shall include a completed application to the Office of Public School Construction for preliminary determination of eligibility under the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter ~~22~~ *12* (commencing with Section ~~17700)~~ *17000)* of Part 10 of the Education Code). The city council or board of supervisors shall take no action on the notice of findings sent to the city or county pursuant to subdivision (a) until the findings have been made available to the public for 60 days after the date of receipt by the city or county. The city council or board of supervisors shall either concur or not concur in the notice of findings within 61 days to 150 days after the date of receipt of the findings. The city council or board of supervisors may extend the period to concur or not to concur for one 30-day period. The failure of the city council or board of supervisors to either concur or not concur within the time period prescribed in this subdivision shall not be deemed as an act of concurrence in the notice of findings by the council or board.

(2) The date of receipt of the notice of findings is the date when all of the materials required by this section are completed and filed by the school district with the city council or board of supervisors.

(3) If the city council or board of supervisors concurs in those findings, Section 65972 shall be applicable to actions taken on residential development by the city council or board of supervisors.

SEC. 316. Section 65973 of the Government Code is amended to read:

65973. As used in this chapter, the following terms ~~means~~ *have the following meanings*:

(a) "Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of the school as determined by the governing body of the district.

(b) "Reasonable methods for mitigating conditions of overcrowding" ~~shall include~~ *includes*, but ~~are~~ *is* not limited to, agreements between a subdivider or builder and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used and agreements between the affected school district and other school districts whereby the affected school district agrees to lease or purchase surplus or underutilized school facilities from other school districts.

(c) "Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

SEC. 317. Section 65974 of the Government Code is amended to read:

65974. (a) For the purpose of establishing an interim method of providing classroom facilities where overcrowded conditions exist, as determined necessary pursuant to Section 65971, and notwithstanding Section 66478, a city, county, or city and county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development, if all of the following occur:

(1) The general plan provides for the location of public schools.

(2) The ordinance has been in effect for a period of 30 days prior to the implementation of the dedication or fee requirement.

(3) The land or fees, or both, transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom and related facilities. If fees are paid in lieu of the dedication of land and those fees are utilized to purchase land, no more land shall be purchased than is necessary for the placement thereon of interim facilities.

(4) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and be limited to the needs of the community for interim elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development. However, the value of the land to be dedicated or the amount of fees to be paid, or both, shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of the dedication of land or the payment of fees, or both, the builder of a residential development may, at his or her option and at his or her expense, provide interim facilities, owned or controlled by the builder, at the place designated by the school district, and at the conclusion of the fifth school year the builder shall, at the builder's expense, remove the interim facilities from that place.

(5) A finding is made by the city council or board of supervisors that the facilities to be constructed from the fees or the land to be dedicated, or both, is consistent with the general plan.

(b) The ordinance may specify the methods for mitigating the conditions of overcrowding ~~which~~ *that* the school district shall consider when making the finding required by paragraph (2) of subdivision (a) of Section 65971.

(c) If the payment of fees is required, the payment shall be made at the time the building permit is issued or at a later time as may be specified in the ordinance.

(d) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(e) *(1)* Notwithstanding any other provision of this chapter, contracts entered into or contracts to be entered into pursuant to a school facilities master plan administered by a joint powers authority created under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 ~~of the Government Code~~ for a designated community plan area adopted by a city, county, or

city and county, whether general law or chartered, on or before September 1, 1986, that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of residential development shall not be subject to ~~the provisions of~~ subdivision (b) of Section 65995. However, in determining developer fees under that school facilities master plan, the cost and maximum building area standards for school buildings prescribed by Chapter ~~22~~ *12* (commencing with Section ~~17700)~~ *17000)* of Part 10 of the Education Code shall apply, and the school district or districts involved are required to have on file with the Office of Public School Construction, and actively pursue in good faith, an application for preliminary determination of eligibility for project funding under that chapter, and shall actively pursue in good faith the establishment of a community capital facilities district or other permanent financing mechanisms to reduce or eliminate developer fees.

(2) Any fees collected or land dedicated after September 1, 1986, pursuant to this section, and not used to avoid overcrowding of the facilities to be built pursuant to the school facilities master plan, shall be subject to disposition in accordance with subdivision (b) of Section 65979.

(3) Fees collected in excess of the limitations set forth in subdivision (b) of Section 65995 for schools constructed under that school facilities master plan shall neither advantage nor disadvantage a school district's application for project funding under Chapter ~~22~~ *12* (commencing with Section ~~17700)~~ *17000)* of Part 10 of the Education Code.

SEC. 318. Section 65979 of the Government Code is amended to read:

65979. (a) One year after receipt of an apportionment pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter ~~22~~ *12* (commencing with Section ~~17700~~ *17000* of Part 10 of the Education Code) for the construction of a school, the city or county shall not be permitted thereafter, pursuant to this chapter or pursuant to any other school facilities financing arrangement the district may have with builders of residential development, to levy any fee or to require the dedication of any land within the attendance area of the school for which the apportionment was received. However, any time after receipt of the apportionment there may be a

determination of overcrowding pursuant to Section 65971, if both of the following further findings are made:

(1) That during the period of construction, or after construction has been completed, additional overcrowding would occur from continued residential development.

(2) That any fee levied and any required dedication of land levied after the receipt of the construction apportionment can be used to avoid the additional overcrowding prior to the school being available for use by the school district.

(b) Any amounts of fees collected or land dedicated after the receipt of the construction apportionment and not used to avoid overcrowding shall be returned to the person who paid the fee or made the land dedication.

SEC. 319. Section 66000 of the Government Code is amended to read:

66000. As used in this chapter, *the following terms have the following meanings*:

(a) "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(b) "Fee" means a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies ~~which~~ *that* provide for the redevelopment of property in furtherance or for the benefit of a redevelopment project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety ~~Code~~ *Code)*.

(c) "Local agency" means a county, city, whether general law or chartered, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state.

(d) "Public facilities" includes public improvements, public services, and community amenities.

SEC. 320. Section 66017 of the Government Code is amended to read:

66017. (a) Any action adopting a fee or charge, or increasing a fee or charge adopted, upon a development project, as defined in Section 66000, which applies to the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use shall be enacted in accordance with the notice and public hearing procedures specified in Section 54986 or 66016 and shall be effective no sooner ~~than~~ *than* 60 days following the final action on the adoption of the fee or charge or increase in the fee or charge.

(b) Without following the procedure otherwise required for the adoption of a fee or charge, or increasing a fee or charge, the legislative body of a local agency may adopt an urgency measure as an interim authorization for a fee or charge, or increase in a fee or charge, to protect the public health, welfare and safety. The interim authorization shall require four-fifths vote of the legislative body for adoption. The interim authorization shall have no force or effect 30 days after its adoption. The interim authority shall contain findings describing the current and immediate threat to the public health, welfare, and safety. After notice and public hearing pursuant to Section 54986 or 66016, the legislative body may extend the interim authority for an additional 30 days. Not more than two extensions may be granted. Any extension shall also require a four-fifths vote of the legislative body.

SEC. 321. Section 67401 of the Government Code is amended to read:

67401. The provisions of this interstate compact are as follows:

WESTERN INTERSTATE NUCLEAR COMPACT

Article I. Policy and Purpose

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear

and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

Article II. The Board

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the board). The board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The board members of the party states shall each be entitled to one vote on the board. No action of the board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the board are cast in favor thereof.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The board shall appoint and fix the compensation of an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, and such other personnel as the

board may direct, shall be bonded in such amounts as the board may require.

(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the board.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The board shall publish its bylaws, rules, and regulations in convenient form and

shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the governor of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

Article III. Finances

(a) The board shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact; provided, that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article II(h), the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions which are adequate to meet any such obligation.

(d) Any expenses and any other costs for each member of the board in attending board ~~meeting~~ *meetings* shall be met by the board.

(e) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of

funds handled by the board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the board.

(f) The accounts of the board shall be open at any reasonable time for inspection to persons authorized by the board, and duly designated representatives of governments contributing to the board's support.

Article IV. Advisory Committees

The board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V. Powers

The board shall have power to:

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, byproducts, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, byproducts, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(*l*) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or subcontractor of the United States government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the board in force pursuant to this paragraph shall provide for reports to the board concerning the occurrence of nuclear incidents and the requests for aid on

account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

Article VI. Mutual Aid

(a) Whenever a party state, or any state or local governmental authorities request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all

materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

Article VII. Supplementary Agreements

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

Article VIII. Other Laws and Relations

Nothing in this compact shall be construed to have the following effect:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

Article IX. Eligible Parties, Entry Into Force and Withdrawal

(a) Any or all of the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into

law; provided, that it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the board, unless it has become a full party to the compact.

Article X. Severability and Construction

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

SEC. 322. Section 68058 of the Government Code is amended to read:

68058. Unless the context otherwise requires, the following definitions govern the construction of this title:

(a) "Annual operating revenue" means revenue and support from all sources except capital construction revenue, designated funds for capital needs, Fresno Metropolitan Projects Authority revenue, and in-kind revenue. Revenue from events, auxiliary programs, and special programs shall be net of expenses.

(b) "Authority" means the Fresno Metropolitan Projects Authority.

(c) "Board" means the Board of Directors of the Fresno Metropolitan Projects Authority.

(d) "Cultural facility or program" means a nonprofit institutional organization ~~which~~ *that* meets the requirements of Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, or program thereof having as its primary purpose the advancement and preservation of art, music, history, literature, theater, or dance. This does not include any agency of local government, the state, any educational institution, any cable communications system, or any newspaper or magazine.

(e) "Multicultural facility and program" means a nonprofit institutional organization ~~which~~ *that* meets the requirements of Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, or program thereof having as its primary purpose advancement and preservation of the various ethnic populations of the area and the promotion of public education and understanding of those populations. This does not include any agency of local government, the state, any educational institution, any cable communications system, or any newspaper or magazine.

(f) "Paid attendance" means the total paid attendance at all programs as verified by annual audit reports.

(g) "Proceeds" means the revenues from the retail transactions and use taxes imposed pursuant to this title and remaining after payment of operating and administrative expenses, including charges by the State Board of Equalization for collection and distribution, not to exceed 3.5 percent of revenues.

(h) "Scientific facility and program" means a nonprofit institutional organization ~~which~~ *that* meets the requirements of Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, or program thereof having as its primary purpose the

advancement and preservation of physical sciences, natural *sciences,* or natural history. This does not include any agency of local government, the state, any educational institution, any cable communications system, or any newspaper or magazine.

(i) "Public ~~Broadcast Entity"~~ *broadcast entity"* means an on-the-air radio or television station operating under a noncommercial educational license granted by the Federal Communications Commission and that is not owned, operated, or controlled by any religious or political organization.

SEC. 323. Section 68059.15 of the Government Code is amended to read:

68059.15. Any action or proceeding in which the validity of the adoption of the retail transactions and use tax ordinance provided for in this title or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within six months from the date of the election at which the ordinance is approved. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and ~~incontestible~~ *incontestable*.

SEC. 324. Section 68503 of the Government Code is amended to read:

68503. Members of ~~such~~ committees *appointed pursuant to Section 68501* shall receive no compensation from the ~~State~~ *state* for their services. When called into session by the ~~Chairman~~ *Chairperson* of the Judicial Council, ~~they~~ *members* shall receive their actual and necessary expenses for travel, board, and lodging, which shall be paid from the funds appropriated to the use of the council. ~~Such~~ *These* expenses shall be approved in ~~such~~ *the* manner ~~as~~ *that* the council directs, and shall be audited by the Controller in accordance with the rules of the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 325. Section 68506 of the Government Code is amended to read:

68506. All salaries and expenses incurred by the council pursuant to this article, including the necessary expenses for

travel, board, and lodging of the members of the council and its officers, assistants, and other employees incurred in the performance of the duties and business of the council, shall be paid from the funds appropriated for the use of the council. ~~Such~~ *The* salaries and expenses shall be approved in ~~such~~ *the* manner ~~as~~ *that* the council directs, and shall be audited by the Controller in accordance with the rules of the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 326. Section 68511.3 of the Government Code is amended to read:

68511.3. (a) The Judicial Council shall formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis. These rules shall provide for all of the following:

(1) Standard procedures for considering and determining applications for permission to proceed in forma pauperis, including, in the event of a denial of permission, a written statement detailing the reasons for denial and an evidentiary hearing ~~where~~ *if* there is a substantial evidentiary conflict.

(2) Standard procedures to toll relevant time limitations when a pleading or other paper accompanied by the application is timely lodged with the court and delay is caused due to the processing of the application to proceed in forma pauperis.

(3) Proceeding in forma pauperis at every stage of the proceedings at both the appellate and trial levels of the court system.

(4) The confidentiality of the financial information provided to the court by these litigants.

(5) That the court may authorize the clerk of the court, county financial officer, or other appropriate county officer to make reasonable efforts to verify the litigant's financial condition without compromising the confidentiality of the application.

(6) That permission to proceed in forma pauperis be granted to all of the following:

(A) Litigants who are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200 to 12205, inclusive, of the Welfare and Institutions Code), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the Food

Stamp Program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and Institutions Code.

(B) Litigants whose monthly income is 125 percent or less of the current monthly poverty line annually established by the Secretary of *California* Health and Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended.

(C) Other persons when, in the court's discretion, this permission is appropriate because the litigant is unable to proceed without using money ~~which~~ *that* is necessary for the use of the litigant or the litigant's family to provide for the common necessaries of life.

(b) (1) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (A) of paragraph (6) of subdivision (a) shall declare under penalty of perjury that they are receiving the benefits, and may voluntarily provide the court with their date of birth and social security number or their Medi-Cal identification number to permit the court to verify the applicant's receipt of public assistance. The court may require any applicant, except a defendant in an unlawful detainer action, who chooses not to disclose his or her social security number for verification purposes to attach to the application documentation of benefits to support the claim and all other financial information on a form promulgated by the Judicial Council for this purpose.

(2) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of subdivision (a) shall file a financial statement under oath on a form promulgated by, and pursuant to rules adopted by, the Judicial Council.

(c) *(1)* The forms and rules adopted by the Judicial Council shall provide for the disclosure of the following information about the litigant:

~~(1)~~

(A) Current street address.

~~(2)~~

(B) Occupation and employer.

~~(3)~~

(C) Monthly income and expenses.

~~(4)~~

(D) Address and value of any real property owned directly or beneficially.

~~(5)~~

(E) Personal property with a value that exceeds five hundred dollars ($500).

(2) The information furnished by the litigant shall be used by the court in determining his or her ability to pay all or a portion of the fees and costs.

(d) *(1)* At any time after the court has granted a litigant permission to proceed in forma pauperis, and prior to final disposition of the case, the clerk of the court, county financial officer, or other appropriate county officer may notify the court of any changed financial circumstances ~~which~~ *that* may enable the litigant to pay all or a portion of the fees and costs ~~which~~ *that* had been waived. The court may authorize the clerk of the court, county financial officer, or other appropriate county officer to require the litigant to appear before and be examined by the person authorized to ascertain the validity of ~~their~~ *his or her* indigent status. However, no litigant shall be required to appear more than once in any four-month period. A litigant proceeding in forma pauperis shall notify the court within five days of any settlement or monetary consideration received in settlement of this litigation and of any other change in financial circumstances that affects the litigant's ability to pay court fees and costs. After the litigant either ~~(1)~~ *(A)* appears before and is examined by the person authorized to ascertain the validity of his or her indigent status, or ~~(2)~~ *(B)* notifies the court of a change in financial circumstances, the court may then order the litigant to pay to the court the sum and in any manner the court believes is compatible with the litigant's financial ability.

(2) In any action or proceeding in which the litigant whose fees and costs have been waived would have been entitled to recover those fees and costs from another party to the action or proceeding had they been paid, the court may assess the amount of the waived fees and costs against the other party and order the other party to pay that sum to the court or to the clerk and serving and levying officers respectively, or the court may order the amount of the waived fees and costs added to the judgment and so identified by the clerk.

(3) Execution may be issued on any order provided for in this subdivision in the same manner as on a judgment in a civil action. When an amount equal to the sum due and payable to the clerk has been collected upon the judgment, these amounts shall be remitted to the clerk within 30 days. Thereafter, when an amount equal to the sum due to the serving and levying officers has been collected upon the judgment, these amounts shall be due and payable to those officers and shall be remitted within 30 days. If the remittance is not received by the clerk within 30 days, or there is a filing of a partial satisfaction of judgment in an amount at least equal to the fees and costs payable to the clerk, or a satisfaction of judgment has been filed, notwithstanding any other provision of law, the court may issue an abstract of judgment, writ of execution, or both for recovery of those sums, plus the fees for issuance and execution and an additional fee for administering this section. The court shall establish a fee, not to exceed actual costs of administering this subdivision, and in no case exceeding twenty-five dollars ($25), ~~which~~ *that* shall be added to the writ of execution.

(e) Notwithstanding subdivision (a), a person who is sentenced to imprisonment in ~~a~~ *the* state prison or confined in a county jail and, during the period of imprisonment or confinement, files a civil action or notice of appeal of a civil action in forma pauperis shall be required to pay the full amount of the filing fee to the extent provided ~~in this subdivision.~~ *as follows:*

(1) In addition to the form required by this section for filing in forma pauperis, an inmate shall file a copy of a statement of account for any sums due to the inmate for the six-month period immediately preceding the filing of the civil action or notice of appeal of a civil action. This copy shall be certified by the appropriate official of the Department of Corrections *and Rehabilitation* or a county jail.

(2) Upon filing the civil action or notice of appeal of a civil action, the court shall assess, and when funds exist, collect, as a partial payment of any required court fees, an initial partial filing fee of 20 percent of the greater of ~~one of~~ the following:

(A) The average monthly deposits to the inmate's account.

(B) The average monthly balance in the inmate's account for the six-month period immediately preceding the filing of the civil action or notice of appeal.

(3) After payment of the initial partial filing fee, the inmate shall be required to make monthly payments of 20 percent of the preceding month's income credited to the inmate's account. The Department of Corrections *and Rehabilitation* shall forward payments from this account to the clerk of the court each time the amount in the account exceeds ten dollars ($10) until the filing fees are paid.

(4) In no event shall the filing fee collected pursuant to this subdivision exceed the amount of fees permitted by law for the commencement of a civil action or an appeal of a civil action.

(5) In no event shall an inmate be prohibited from bringing a civil action or appeal of a civil action solely because the inmate has no assets and no means to pay the initial partial filing fee.

SEC. 327. Section 68543 of the Government Code is amended to read:

68543. The extra compensation and expenses for travel, board, and lodging of judges sitting in the Supreme Court and courts of appeal under assignments made by the Chairperson of the Judicial Council shall be paid by the state under the rules adopted by the ~~Board of Control which~~ *California Victim Compensation and Government Claims Board that* are applicable to officers of the state provided for in Article VI of the *California* Constitution while traveling on official state business.

SEC. 328. Section 68543.5 of the Government Code is amended to read:

68543.5. (a) Whenever a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not a member of the Judges' Retirement System nor the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

(b) If a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which the retired judge is assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund, as applicable.

(c) During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* that are applicable to officers of the state provided for in Article VI of the *California* Constitution while traveling on official state business.

(d) Notwithstanding ~~the above provisions~~ *subdivisions (a), (b), and (c)* pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

SEC. 329. Section 68543.8 of the Government Code is amended to read:

68543.8. (a) The Legislature finds that there is a shortage of judicial officers available to provide temporary assistance to courts in rural counties, under assignment by the chief justice. When courts are unable to obtain temporary assistance, delay of both civil trials and case settlements occur. The availability of an assigned judge can substantially reduce these delays. The purpose of this section is to make judicial assistance more available.

(b) The Judicial Council shall contract with up to 10 retired judges who shall be available to be assigned up to 110 court days each year by the Chairperson of the Judicial Council to courts in counties ~~which~~ *that* have requested these judges for purposes of reducing delays in civil trials in those courts. If counties request more than 10 retired judges pursuant to this section, the Judicial

Council shall give priority in assigning the retired judges to counties with fewer than 10 judges.

A judge under contract pursuant to this section shall serve as assigned during the period of the contract and waives any right to refuse assignment as otherwise provided by law. This section shall not be construed to limit the authority of the Chief Justice to make assignments to expedite judicial business and to equalize the workload of judges.

(c) Notwithstanding Section 68543.5, each judge under contract pursuant to this section shall receive one-half of the daily salary of a superior court judge for each day of service, in addition to any retirement benefits to which the judge may be entitled.

(d) The assigned judge's salary shall be paid by the state. A retired judge under contract pursuant to this section shall be allowed expenses for travel, board, and lodging incurred in the discharge of each assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed necessary and reasonable expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the ~~State Board of Control which~~ *California Victim Compensation and Government Claims Board that* are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

SEC. 330. Section 68565 of the Government Code is amended to read:

68565. *(a)* The Judicial Council may establish a court interpreters advisory panel to assist the council in performing its duties under this article. The panel shall include a majority of court interpreters and may include judges and court administrators, members of the bar, and others interested in interpreter services in the courts. The panel shall develop operating guidelines and procedures for Judicial Council approval.

(b) The panel shall seek the advice of judges, attorneys, court administrators, court interpreters, providers of legal services, and individuals and organizations representing the interests of foreign language users.

(c) Panel members shall receive no compensation for their services but shall be allowed necessary expenses for travel, board, and lodging incurred in the discharge of their duties under the rules adopted by the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 331. Section 70622 of the Government Code is amended to read:

70622. *(a)* In addition to the uniform filing fee authorized pursuant to Section 70611, 70612, 70613, 70614, 70650, 70651, 70652, 70653, 70655, or 70670, after giving notice and holding a public hearing on the proposal, the Board of Supervisors of Riverside County may impose a surcharge not to exceed fifty dollars ($50) for the filing in superior court of ~~(a) a~~ *any of the following:*

(1) A complaint, petition, or other first paper in a civil or probate action or special proceeding~~, (b) a~~.

(2) A first paper on behalf of any defendant, respondent, intervenor, or adverse party~~, (c) a~~.

(3) A petition for dissolution of marriage, dissolution of domestic partnership, legal separation, or nullity of marriage~~, (d) a~~.

(4) A response to such a petition~~, or (e) a~~.

(5) A first paper on behalf of any party in a proceeding under Section 98.2 of the Labor Code. ~~The~~

(b) The county shall notify in writing the Superior Court of Riverside County and the Administrative Office of the Courts of any change in a surcharge under this section. ~~When~~

(c) When a surcharge under this section is imposed on a filing fee, the distribution that would otherwise be made to the State Court Facilities Construction Fund under subdivision (c) of Section 68085.3 or subdivision (c) of Section 68085.4 shall be reduced as provided in Section 70603.

~~(b)~~

(d) The surcharge shall be in an amount determined to be necessary by the board of supervisors to cover the costs of the seismic stabilization, construction, and rehabilitation of the Riverside County Courthouse, the Indio Branch Courthouse, and the family law courthouse, and collection thereof shall terminate upon repayment of the amortized costs incurred. When the amortized costs have been repaid, the county shall notify in

writing the Superior Court of Riverside County and the Administrative Office of the Courts.

SEC. 332. Section 75560.4 of the Government Code is amended to read:

75560.4. (a) A judge who retires for disability shall receive a retirement allowance in an amount equal to the lower of the following:

(1) The benefit factor under subdivision (d) of Section 75522 multiplied by the judge's final compensation on the effective date of the disability retirement, multiplied by the number of years of service the judge would have been credited if the judge's service had continued to the age the judge would have first been eligible to retire under subdivision (a) of Section 75522.

(2) Sixty-five percent of the judge's final compensation on the effective date of the disability retirement.

(b) Notwithstanding subdivision (a), the retirement allowance of a judge who retires for disability shall equal 65 percent of the judge's final compensation on the effective date of the disability retirement regardless of the judge's age or length of service, if the Commission on Judicial Performance determines that the disability is predominantly a result of injury arising out of and in the course of judicial service.

SEC. 333. Section 77202 of the Government Code is amended to read:

77202. (a) The Legislature shall make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council. The Judicial Council's trial court budget request, which shall be submitted to the Governor and the Legislature, shall meet the needs of all trial courts in a manner that ensures a predictable fiscal environment for labor negotiations in accordance with the Trial Court Employment Protection and Governance Act, that promotes equal access to the courts statewide, and that promotes court financial accountability. The annual budget request shall include the following components:

(1) In order to ensure that trial court funding is not eroded and that sufficient funding is provided to trial courts to be able to accommodate increased costs without degrading the quantity or quality of court services, a base funding adjustment for operating costs shall be included that is computed based upon the

year-to-year percentage change in the annual state appropriations limit. For purposes of this adjustment, operating costs include, but are not limited to, all expenses for court operations and court employee salaries and salary-driven benefits, but do not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

(2) Nondiscretionary costs necessitated by law or county government that exceed the annual state appropriations limit and other adjustments required to accommodate other operational and programmatic changes shall be separately identified and justified through the annual budget process.

(b) The Judicial Council shall allocate the appropriation to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies and cost-saving measures in court operations, in order to guarantee access to justice to citizens of the state.

The Judicial Council shall ensure that its trial court budget request and the allocations made by it reward each trial court's implementation of efficiencies and cost-saving measures.

These efficiencies and cost-saving measures shall include, but not be limited to, the following:

(1) The sharing or merger of court support staff among trial courts across counties.

(2) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(3) The establishment of a separate calendar or division to hear a particular type of case.

(4) In rural counties, the use of all court facilities for hearings and trials of all types of cases and the acceptance of filing documents in any case.

(5) The use of alternative dispute resolution programs, such as arbitration.

(6) The development and use of automated accounting and case-processing systems.

(c) (1) The Judicial Council shall adopt policies and procedures governing practices and procedures for budgeting in the trial courts in a manner that best ensures the ability of the courts to carry out their functions and may delegate the adoption

to the Administrative Director of the Courts. The Administrative Director of the Courts shall establish budget procedures and an annual schedule of budget development and management consistent with these rules.

(2) The Trial Court Policies and Procedures shall specify the process for a court to transfer existing funds between or among the budgeted program components to reflect changes in the court's planned operation or to correct technical errors. If the process requires a trial court to request approval of a specific transfer of existing funds, the Administrative Office of the Courts shall review the request to transfer funds and respond within 30 days of receipt of the request. The Administrative Office of the Courts shall respond to the request for approval or denial to the affected court, in writing, with copies provided to the Department of Finance, the Legislative ~~Analyst~~ *Analyst's* Office, the Legislature's budget committees, and the court's affected labor organizations.

(3) The Judicial Council shall circulate for comment to all affected entities any amendments proposed to the Trial Court Policies and Procedures as they relate to budget monitoring and reporting. Final changes shall be adopted at a meeting of the Judicial Council.

SEC. 334. Section 87102.6 of the Government Code is amended to read:

87102.6. (a) "Nongeneral legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) ~~The term "public~~ "*Public* generally" includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of *the* public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not nongeneral legislation.

(8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

SEC. 335. Section 87104 of the Government Code, as added by Section 1 of Chapter 274 of the Statutes of 1994, is repealed.

~~87104. (a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or by making any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing action on a contract, grant, loan, license, permit, or other entitlement for use.~~

~~(b) For purposes of this section, a "public official" is any person defined in Section 82048, and every member of any advisory committee of a state agency, whether the committee is created by statute or otherwise.~~

SEC. 336. Section 89513 of the Government Code is amended to read:

89513. ~~The following provisions govern~~ *This section governs* the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that ~~these provisions shall~~ *this section* guide the interpretation of the

standard imposed by Section 89512 as applied to other expenditures not specifically set forth ~~below~~ *in this section*.

(a) *(1)* Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

~~(1)~~

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

~~(2)~~

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

~~(3)~~

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by paragraph (7) of subdivision (j) of Section 84211.

~~(4)~~

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit ~~which~~ *that* is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

(b) *(1)* Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are

directly related to a political, legislative, or governmental purpose.

~~(1)~~

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

~~(2)~~

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" ~~include~~ *includes*, but ~~are~~ *is* not limited to, *expenses for* examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses ~~or~~ *for* medications, treatments, or medical equipment, *and* expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity ~~which~~ *that* was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, ~~where~~ *if* this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) *(1)* Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

~~(1)~~

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

~~(2)~~

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

~~(2)~~

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars ($250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

SEC. 337. Section 92201 of the Government Code is amended to read:

92201. *(a)* The commission is authorized to acquire by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands located within this state necessary or convenient for the construction or operation of a

project, upon terms and conditions it deems advisable, and to lease, sell, or dispose of the property or interest therein in the manner that may be necessary or desirable to carry out the objects and purposes of this title.

(b) Nothing in this division shall ~~authorizes~~ *authorize* the commission to exercise the power of eminent domain.

SEC. 338. Section 92251 of the Government Code is amended to read:

92251. *(a)* At times that the commission desires to issue bonds, as defined in Section 92252, it shall adopt a resolution specifying the total amount of bonds proposed to be issued.

(b) The maximum aggregate principal amount of bonds ~~which~~ *that* may be issued under the authority of this title is one billion two hundred fifty million dollars ($1,250,000,000) plus the amount of any indebtedness authorized by Section ~~99270~~ *92270*.

(c) The ~~above~~ limitation *in subdivision (b)* does not apply to bonds or other evidence of indebtedness, including bond anticipation notes and commercial paper, issued to refund bonds, bond anticipation notes, or commercial paper.

SEC. 339. Section 92268 of the Government Code is amended to read:

92268. Bonds issued pursuant to Section ~~99265~~ *92265* are subject to this title in the same manner and to the same extent as other bonds issued pursuant to this title.

SEC. 340. Section 92309 of the Government Code is amended to read:

92309. Notwithstanding any other provision of law:

(a) The commission and its revenues, amounts for administration expenses, and any other income shall be exempt from all taxes on, or measured by, income.

(b) Bonds issued by the commission shall be exempt from all property taxation, and the interest on the bonds shall be exempt from all taxes on income.

(c) All property owned by the commission shall be exempt from property taxes, assessments, and other public charges secured by liens.

(d) All interest of the participating party in the property of any project shall, for purposes of property taxation, be subject to Division 1 (commencing with Section 101) of the Revenue and Taxation Code, and the interests that constitute the tax base for

property taxation is subject to assessments and charges on the same basis as other property.

(e) "Sale" and "purchase," for the purposes of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, do not include any lease or transfer of title of tangible personal property constituting any project ~~of~~ *or* facility to the commission by a participating party, nor any lease or transfer of title of tangible personal property constituting any project or facility by the commission to a participating party, when the transfer or lease is made pursuant to this title.

SEC. 341. Section 72.4 of the Harbors and Navigation Code is amended to read:

72.4. ~~Any~~ *An* agreement or contract for a transfer pursuant to *former* Section 5823 of the Public Resources Code or a loan pursuant to *former* Section 5827 or 6499.5 of ~~said~~ *that* code, executed prior to the effective date of this chapter, shall, for the purposes of this chapter, be considered as an agreement or contract executed pursuant to this chapter.

SEC. 342. Section 303 of the Harbors and Navigation Code is amended to read:

303. ~~Every~~ *A* person who ~~wilfully~~ *willfully* and maliciously burns, injures, or destroys any part of, ~~of~~ *or* the whole of ~~any~~, *a* pile or raft of wood, plank, boards, or other lumber, or cuts loose or sets adrift ~~any such~~ *the* raft or part of ~~a~~ *the* raft, ~~which~~ *that* is the property of another, is guilty of a misdemeanor.

SEC. 343. Section 444 of the Harbors and Navigation Code is amended to read:

444. It shall be understood and agreed, and shall be the essence of ~~any~~ *an* agreement under which services of the pilot are tendered to and are accepted by owners, agents, charterers, or operators, as follows:

(a) The vessel requesting pilotage services and its owners, agents, charterers, and operators covenant and agree not to assert ~~any claims~~ *a claim* against the pilot, the pilot's employer, or other employees of the pilot's employer for damages, including any rights over, arising out of, or connected with, directly or indirectly, any damage, loss, or expense sustained by the vessel, its owners, agents, charterers, operators, or crew, and by any third parties, even ~~through~~ *though* resulting in whole or in part from acts, omissions, or negligence of the pilot, the pilot's

employer, or other employees of the pilot's employer. The vessel and its owners, agents, charterers, and operators further covenant and agree, subject to any limitation of liability to which they are entitled by reason of any contract, bill of lading, statute, or other provision of law in force, to indemnify and hold harmless the pilot, the pilot's employer, and other employees of the pilot's employer with respect to liability arising from any and all claims, suits, or actions, by whomsoever asserted, resulting in whole or in part from acts, omissions, or negligence of the pilot, the pilot's employer, or other employees of the pilot's employer. These covenants and agreements do not apply to ~~such~~ liability and rights ~~as~~ *that* may arise from the willful misconduct or gross negligence of the pilot, the pilot's employer, or other employees of the pilot's employer.

(b) If any vessel on whose behalf pilotage services are requested is not owned by the person or entity ordering the services, that person or entity warrants its authority to bind the vessel and its owners, charterers, and operators to all the provisions contained in subdivision (a), and that person and entity agree to indemnify and hold harmless~~,~~ the pilot, the pilot's employer, and other employees of the pilot's employer with respect to all losses, damages, and expenses that may be suffered or incurred in consequence of the person or entity not having that authority.

(c) Pilotage services are voluntarily requested~~,~~ and are voluntarily rendered in reliance upon the terms specified in subdivisions (a) and (b).

(d) This article does not affect the rights of third parties against a vessel, its master, owners, agents, charterers, or operators, or a pilot, the pilot's employer, or other employees of a pilot's employer.

(e) This article does not preclude any pilot or pilot's employer from entering into contracts with the owners, agents, charterers, or operators of a vessel ~~which~~ *that* contain additional pilotage terms and conditions.

SEC. 344. Section 504 of the Harbors and Navigation Code is amended to read:

504. (a) For vessels with a value determined to be one thousand five hundred dollars ($1,500) or less, the department

shall promptly furnish the lienholder with the names and addresses of the registered and legal owners of record.

(b) The lienholder shall, immediately upon receipt of the names and addresses, send by mail, with return receipt requested, a completed notice of pending lien sale form, a blank declaration of opposition form, and a return envelope preaddressed to the department, to the registered owner and legal owner at their addresses of record with the department, to any other person known to have a proprietary interest in the vessel, and to the department.

(c) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(d) All notices shall be signed under penalty of perjury and shall include all of the following information and statements:

(1) A description of the vessel, including make, identification number, and state of registration, to the extent available.

(2) The specific date, exact time, and place of sale, which shall be set not less ~~then~~ *than* 35 days, but not more than 60 days, from the date of mailing.

(3) The names and addresses of the registered and legal owners of the vessel and any other person known to have an interest in the vessel.

(4) All of the following statements:

(A) The amount of the lien and the facts ~~which~~ *that* give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(B) The person has a right to a hearing in court.

(C) If a court hearing is desired, a declaration of opposition signed under penalty of perjury is required to be signed and returned to the department within 15 days of the date the notice of pending lien sale was mailed.

(D) If the declaration of opposition is signed and returned, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant.

(E) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address

shown on the declaration of opposition and may appear to contest the claim.

(F) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(e) If the department receives the completed declaration of opposition within the time provided, the department shall notify the lienholder within 16 days that a lien sale shall not be conducted unless the lienholder files an action in court within 20 days of the notice and judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his *or her* interest in the vessel.

(f) Service on the declarant by mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. If the lienholder has attempted service upon the declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the lienholder may proceed with the sale.

SEC. 345. Section 508 of the Harbors and Navigation Code is amended to read:

508. ~~Any~~ *A* lien provided for in this article for repairs, labor, supplies, or materials *for*, or for storage or safekeeping of, a vessel may be assigned by written instrument accompanied by delivery of possession of the vessel subject to the lien, and the assignee may exercise the rights of a lienholder as provided in this article. ~~Any~~ *A* lienholder assigning a lien as authorized in this section shall at the time of assigning the lien give written notice of the assignment either by personal delivery ~~of~~ *or* by certified mail, to the registered and legal owners of the vessel, indicating the name and address of the person to whom the lien is assigned.

SEC. 346. Section 773.2 of the Harbors and Navigation Code is amended to read:

773.2. As used in this article, *the following definitions shall apply*:

(a) "For-hire vessel" means a for-hire vessel as defined in Section 4661 of the Public Utilities Code, irrespective of the number of passengers carried.

(b) "Charter boat" means a for-hire vessel operating on navigable water of the state in the coastal zone, as defined in Section 30103 of the Public Resources Code, whether or not the vessel is licensed by the state. However, "charter boat" does not include any boat operating solely within a harbor, as defined in Section 34, or any boat licensed for point-to-point service while operating within the scope of that license.

(c) "Operator" means a person owning, controlling, operating, or managing a for-hire vessel.

(d) "Charterer" means a person who receives compensation for contracting with an operator to transport three or more passengers.

(e) "Coast Guard" means the United States Coast Guard.

(f) "Life preserver" means a life preserver approved and certified by the Coast Guard and capable of providing at least 90 percent of factory-rated flotation capacity.

(g) "Person" means any individual, firm, partnership, for-profit corporation, ~~not for-profit~~ *nonprofit* corporation, limited liability company, company, association, joint stock association, trustee, receiver, assignee, or other similar entity or representative.

SEC. 347. Section 1176 of the Harbors and Navigation Code is amended to read:

1176. Pilots and inland pilots shall undergo physical examinations in accordance with standards prescribed by the board in ~~conjuction~~ *conjunction* with the renewal of their license. The examination shall designate that each pilot or inland pilot is fit to ~~peform~~ *perform* his or her duties as a pilot.

SEC. 348. Section 6037.4 of the Harbors and Navigation Code is amended to read:

6037.4. *(a)* The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

(b) The ballot pamphlet shall contain the following in the order prescribed:

~~(a)~~

(1) The complete text of the proposition.

~~(b)~~

(2) The impartial analysis of the proposition, prepared by the local agency formation commission.

~~(c)~~

(3) The argument for the proposed district formation.

~~(d)~~

(4) The argument against the proposed district formation.

(c) The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ~~a~~ ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 349. Section 1250.3 of the Health and Safety Code is amended to read:

1250.3. (a) As defined in Section 1250, "health facility" includes the following type: "Chemical dependency recovery hospital" means a health facility ~~which~~ *that* provides 24-hour inpatient care for persons who have a dependency on alcohol or other drugs, or both alcohol and other drugs. ~~Such~~ *This* care shall include, but not be limited to, the following basic services: patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services. Each facility shall have a medical director who is a physician and surgeon licensed to practice in this state.

(b) The Legislature finds and declares that problems related to the inappropriate use of alcohol or other drugs, or both alcohol and other drugs, are widespread and adversely affect the general welfare of the people of the State of California. It is the intent of the Legislature that the chemical dependency recovery hospital will provide an innovative inpatient treatment program for persons who have a dependency on alcohol or drugs, or both alcohol and other drugs. The Legislature further finds and declares that significant cost reductions can be achieved by chemical dependency recovery hospitals when both of the following conditions exist:

(1) Architectural requirements established by the ~~state~~ department encourage a flexible and open construction approach ~~which~~ *that* significantly ~~reduce~~ *reduces* capital construction costs.

(2) Programs are designed to provide comprehensive inpatient treatment ~~yet permit~~ *while permitting* substantial flexibility in the use of qualified personnel to meet the specific needs of the patients of the facility.

(c) Beds classified as chemical dependency recovery beds in a general acute care hospital or acute psychiatric hospital or a freestanding facility ~~which~~ *that* is owned or leased by the general acute care hospital or the acute psychiatric hospital ~~and which~~, *that* is located on the same premises or adjacent premises thereof, not to exceed a 15-mile radius within the same health facility planning area, as defined January 1, 1981, by the Office of Statewide Health Planning and Development, and *that* is under the administrative control of the general acute care hospital or the acute psychiatric hospital, shall be used exclusively for alcohol or other drug dependency treatment, or both alcohol and other drug dependency treatment. No general acute care hospital or acute psychiatric hospital or a freestanding facility, as defined in this subdivision, shall, without fulfilling the requirements of the licensing laws and health planning laws, convert beds classified as chemical dependency recovery beds to any other bed classification or provide new chemical dependency recovery beds by increasing bed capacity.

(d) *(1)* Chemical dependency recovery services may be provided as a supplemental service in existing general acute care beds and acute psychiatric beds in a general acute care hospital or in existing acute psychiatric beds in an acute psychiatric hospital or in existing beds in a freestanding facility, as defined in subdivision (c). When providing chemical dependency recovery services as a supplemental service, the general acute care hospital, acute psychiatric hospital, or freestanding facility, as defined in subdivision (c), shall provide the supplemental services in a distinct part of the hospital or freestanding facility, ~~provided that~~ *if* the distinct part satisfies the criteria established by law and regulation for approval as a chemical dependency recovery supplemental service. ~~A distinct part~~

(2) For purposes of this subdivision, "distinct part" means an identifiable unit of a hospital or a freestanding facility, as defined in subdivision (c), accommodating beds, and related services, including, but not limited to, contiguous rooms, a wing, a floor, or a building that is approved by the ~~State Department of Health~~

~~Services~~ *department* for a specific purpose. Notwithstanding any other provisions of this subdivision, an acute psychiatric hospital ~~which~~ *that* provides all of the basic services specified in ~~subdivison~~ *subdivision* (b) of Section 1250 may, subject to the approval of the ~~state~~ department, have all of its licensed acute psychiatric beds approved for chemical dependency recovery services. Chemical dependency recovery services provided ~~under~~ *pursuant to* this subdivision shall not require a separate license or reclassification of beds under the health planning laws.

(e) If the chemical dependency recovery hospital is not a supplemental service of a general acute care hospital, it shall have agreements with one or more general acute care hospitals providing for 24-hour emergency service and pharmacy, laboratory, and ~~such~~ *any* other services ~~as~~ *that* the ~~state~~ department may require.

(f) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

SEC. 350. Section 1267.19 of the Health and Safety Code is amended to read:

1267.19. Congregate living health facilities shall not be subject to architectural plan review by the Office of Statewide Health Planning and Development. As part of the application for licensure, the prospective licensee shall submit evidence of compliance with local building code requirements. In addition, the physical environment shall be adequate to provide *for* the level of care and service required by the residents of the facility, as ~~detemined~~ *determined* by the department.

SEC. 351. Section 1276.8 of the Health and Safety Code is amended to read:

1276.8. Notwithstanding any other provision of law, including, but not limited to, Section 1276, the following shall apply:

(a) As used in this code, “respiratory care practitioner,” “respiratory therapist,” “respiratory therapy technician,” and “inhalation therapist” mean a respiratory care practitioner certified under the Respiratory Care Practice Act (Chapter 8.3 (commencing with Section 3700) of Division 2 of the Business and Professions Code).

(b) The definition of respiratory care services, respiratory therapy, inhalation therapy, or the scope of practice of respiratory

care, shall be as described in Section 3702 of the Business and Professions Code.

(c) Respiratory care may be performed in hospitals, ambulatory or in-home care, and other settings where respiratory care is performed under the supervision of a medical director in accordance with the prescription of a physician and surgeon. Respiratory care may also be provided during the transportation of a patient, and under any circumstances where an emergency necessitates respiratory care.

(d) In addition to other licensed health care practitioners authorized to administer respiratory care, *a* certified respiratory care ~~practioners~~ *practitioner* may accept, transcribe, and implement the written and verbal orders of a physician and surgeon pertaining to the practice of respiratory care.

SEC. 352. Section 1312 of the Health and Safety Code is amended to read:

1312. Before a person who is required to register as a sex offender under Section 290 of the Penal Code is released into a long-term health care facility, as defined in Section 1418, the Department of Corrections and Rehabilitation, the State Department of Mental Health, ~~any~~ or *any* other official in charge of the place of confinement, shall notify the facility, in writing, that the sex offender is being released to reside at the facility.

SEC. 353. Section 1357.09 of the Health and Safety Code is amended to read:

1357.09. No plan shall be required to offer a health care service plan contract or accept applications for ~~such a~~ *the* contract pursuant to this article in the case of any of the following:

(a) To a small employer, ~~where~~ *if* the small employer is not physically located in a plan's approved service areas, or ~~where~~ *if* an eligible employee and dependents who are to be covered by the plan contract do not work or reside within a plan's approved service areas.

(b) *(1)* Within a specific service area or portion of a service area ~~where~~, *if* a plan reasonably anticipates and demonstrates to the satisfaction of the director that it will not have sufficient health care delivery resources to assure that health care services will be available and accessible to the eligible employee and

dependents of the employee because of its obligations to existing enrollees.

~~(1)~~

(2) A plan that cannot offer a health care service plan contract to small employers because it is lacking in sufficient health care delivery resources within a service area or a portion of a service area may not offer a contract in the area in which the plan is not offering coverage to small employers to new employer groups with more than 50 eligible employees until the plan notifies the director that it has the ability to deliver services to small employer groups, and certifies to the director that from the date of the notice it will enroll all small employer groups requesting coverage in that area from the plan unless the plan has met the requirements of subdivision (d).

~~(2)~~

(3) Nothing in this article shall be construed to limit the director's authority to develop and implement a plan of rehabilitation for a health care service plan whose financial viability or organizational and administrative capacity ~~have~~ *has* become impaired.

(c) Offer coverage to a small employer or an eligible employee as defined under paragraph (2) of subdivision (b) of Section 1357 ~~which~~ *that*, within 12 months of application for coverage, disenrolled from a plan contract offered by the plan.

(d) *(1)* The director approves the plan's certification that the number of eligible employees and dependents enrolled under contracts issued during the current calendar year equals or exceeds ~~(1) in~~ *either of the following:*

(A) In the case of a plan that administers any self-funded health coverage arrangements in California, 10 percent of the total enrollment of the plan in California as of December 31 of the preceding year~~, or (2) in~~.

(B) In the case of a plan that does not administer any self-funded health coverage arrangements in California, 8 percent of the total enrollment of the plan in California as of December 31 of the preceding year. If that certification is approved, the plan shall not offer any health care service plan contract to any small employers during the remainder of the current year.

~~(1)~~

(2) If a health care service plan treats an affiliate or subsidiary as a separate carrier for the purpose of this article because one health care service plan is qualified under the federal Health Maintenance Organization Act *(42 U.S.C. Sec. 300e et seq.)* and does not offer coverage to small employers, while the affiliate or subsidiary offers a plan contract that is not qualified under the federal Health Maintenance Organization Act *(42 U.S.C. Sec. 300e et seq.)* and offers plan contracts to small employers, the health care service plan offering coverage to small employers shall enroll new eligible employees and dependents, equal to the applicable percentage of the total enrollment of both the health care service plan qualified under the federal Health Maintenance Organization Act *(42 U.S.C. Sec. 300e et seq.)* and its affiliate or subsidiary.

~~(2)~~

(3) (A) The certified statement filed pursuant to this subdivision shall state the following:

~~(A)~~

(i) Whether the plan administers any self-funded health coverage arrangements in California.

~~(B)~~

(ii) The plan's total enrollment as of December 31 of the preceding year.

~~(C)~~

(iii) The number of eligible employees and dependents enrolled under contracts issued to small employer groups during the current calendar year.

(B) The director shall, within 45 days, approve or disapprove the certified statement. If the certified statement is disapproved, the plan shall continue to issue coverage as required by Section 1357.03 and be subject to disciplinary action as set forth in Article 7 (commencing with Section 1386).

(e) A health care service plan that, as of December 31 of the prior year, had a total enrollment of fewer than 100,000 and 50 percent or more of the plan's total enrollment have premiums paid by the Medi-Cal program.

(f) A social health maintenance organization, as described in subdivision (a) of Section 2355 of the federal Deficit Reduction Act of 1984 ~~(Public Law 97-369)~~ *(P.L. 98-369)*, that, as of December 31 of the prior year, had a total enrollment of fewer

than 100,000 and has 50 percent or more of the organization's total enrollment premiums paid by the Medi-Cal program or Medicare programs, or by a combination of Medi-Cal and Medicare. In no event shall this exemption be based upon enrollment in Medicare supplement contracts, as described in Article 3.5 (commencing with Section 1358).

SEC. 354. Section 1399.811 of the Health and Safety Code is amended to read:

1399.811. Premiums for contracts offered, delivered, amended, or renewed by plans on or after January 1, 2001, shall be subject to the following requirements:

(a) The premium for new business for a federally eligible defined individual shall not exceed the following amounts:

(1) For health care service plan contracts identified in subdivision (d) of Section 1366.35 that offer services through a preferred provider arrangement, the average premium paid by a subscriber of the Major Risk Medical Insurance Program who is of the same age and resides in the same geographic area as the federally eligible defined individual. However, for federally qualified individuals who are between the ages of 60 to 64 *years*, inclusive, the premium shall not exceed the average premium paid by a subscriber of the Major Risk Medical Insurance Program who is 59 years of age and resides in the same geographic area as the federally eligible defined individual.

(2) For health care service plan contracts identified in subdivision (d) of Section 1366.35 that do not offer services through a preferred provider arrangement, 170 percent of the standard premium charged to an individual who is of the same age and resides in the same geographic area as the federally eligible defined individual. However, for federally qualified individuals who are between the ages of 60 to 64 *years*, inclusive, the premium shall not exceed 170 percent of the standard premium charged to an individual who is 59 years of age and resides in the same geographic area as the federally eligible defined individual.

(b) The premium for in force business for a federally eligible defined individual shall not exceed the following amounts:

(1) For health care service plan contracts identified in subdivision (d) of Section 1366.35 that offer services through a preferred provider arrangement, the average premium paid by a

subscriber of the Major Risk Medical Insurance Program who is of the same age and resides in the same geographic area as the federally eligible defined individual. However, for federally qualified individuals who are between the ages of 60 and 64 *years,* inclusive, the premium shall not exceed the average premium paid by a subscriber of the Major Risk Medical Insurance Program who is 59 years of age and resides in the same geographic area as the federally eligible defined individual.

(2) For health care service plan contracts identified in subdivision (d) of Section 1366.35 that do not offer services through a preferred provider arrangement, 170 percent of the standard premium charged to an individual who is of the same age and resides in the same geographic area as the federally eligible defined individual. However, for federally qualified individuals who are between the ages of 60 and 64 *years,* inclusive, the premium shall not exceed 170 percent of the standard premium charged to an individual who is 59 years of age and resides in the same geographic area as the federally eligible defined individual. The premium effective on January 1, 2001, shall apply to in force business at the earlier of either the time of renewal or July 1, 2001.

(c) The premium applied to a federally eligible defined individual may not increase by more than the following amounts:

(1) For health care service plan contracts identified in subdivision (d) of Section 1366.35 that offer services through a preferred provider arrangement, the average increase in the premiums charged to a subscriber of the Major Risk Medical Insurance Program who is of the same age and resides in the same geographic area as the federally eligible defined individual.

(2) For health care service plan contracts identified in subdivision (d) of Section 1366.35 that do not offer services through a preferred provider arrangement, the increase in premiums charged to a nonfederally qualified individual who is of the same age and resides in the same geographic area as the federally defined eligible individual. The premium for an eligible individual may not be modified more frequently than every 12 months.

~~(2)~~

(3) For a contract that a plan has discontinued offering, the premium applied to the first rating period of the new contract that

the federally eligible defined individual elects to purchase shall be no greater than the premium applied in the prior rating period to the discontinued contract.

SEC. 355. Section 1418.8 of the Health and Safety Code is amended to read:

1418.8. (a) If the attending physician and surgeon of a resident in a skilled nursing facility or intermediate care facility prescribes or orders a medical intervention that requires *that* informed consent be obtained prior to administration of the medical intervention, but is unable to obtain informed consent because the physician and surgeon determines that the resident lacks capacity to make decisions concerning his or her health care and that there is no person with legal authority to make those decisions on behalf of the resident, the physician and surgeon shall inform the skilled nursing facility or intermediate care facility.

(b) For purposes of subdivision (a), a resident lacks capacity to make a decision regarding his or her health care if the resident is unable to understand the nature and consequences of the proposed medical intervention, including its risks and benefits, or is unable to express a preference regarding the intervention. To make the determination regarding capacity, the physician shall interview the patient, review the patient's medical records, and consult with skilled nursing or intermediate care facility staff, as appropriate, and family members and friends of the resident, if any have been identified.

(c) For purposes of subdivision (a), a person with legal authority to make medical treatment decisions on behalf of a patient is a person designated under a valid Durable Power of Attorney for Health Care, a guardian, a conservator, or next of kin. To determine the existence of a person with legal authority, the physician shall interview the patient, review the medical records of the patient, and consult with skilled nursing or intermediate care facility staff, as appropriate, and *with* family members and friends of the resident, if any have been identified.

(d) The attending physician and the skilled nursing facility or intermediate care facility may initiate a medical intervention that requires informed consent pursuant to subdivision (e) in accordance with acceptable standards of practice.

(e) Where a resident of a skilled nursing facility or intermediate care facility has been prescribed a medical intervention by a physician and surgeon that requires informed consent and the physician has determined that the resident lacks capacity to make health care decisions and there is no person with legal authority to make those decisions on behalf of the resident, the facility shall, except as provided in subdivision (h), conduct an interdisciplinary team review of the prescribed medical intervention prior to the administration of the medical intervention. The interdisciplinary team shall oversee the care of the resident utilizing a team approach to assessment and care planning, and shall include the resident's attending physician, a registered professional nurse with responsibility for the resident, other appropriate staff in disciplines as determined by the resident's needs, and, where practicable, a patient representative, in accordance with applicable federal and state requirements. The review shall include all of the following:

(1) A review of the physician's assessment of the resident's condition.

(2) The reason for the proposed use of the medical intervention.

(3) A discussion of the desires of the patient, where known. To determine the desires of the resident, the interdisciplinary team shall interview the patient, review the patient's medical records, and consult with family members or friends, if any have been identified.

(4) The type of medical intervention to be used in the resident's care, including its probable frequency and duration.

(5) The probable impact on the resident's condition, with and without the use of the medical intervention.

(6) Reasonable alternative medical interventions considered or utilized and reasons for their discontinuance or inappropriateness.

(f) A patient representative may include a family member or friend of the resident who is unable to take full responsibility for the health care decisions of the resident, but *who* has agreed to serve on the interdisciplinary team, or other person authorized by state or federal law.

(g) The interdisciplinary team shall periodically evaluate the use of the prescribed medical intervention at least quarterly or upon a significant change in the resident's medical condition.

(h) In case of an emergency, after obtaining a physician and surgeon's order as necessary, a skilled nursing or intermediate care facility may administer a medical intervention ~~which~~ *that* requires informed consent prior to the facility convening an interdisciplinary team review. If the emergency results in the application of physical or chemical restraints, the interdisciplinary team shall meet within one week of the emergency for an evaluation of the medical intervention.

(i) ~~Physician~~ *Physicians* and surgeons and skilled nursing facilities and intermediate care facilities shall not be required to obtain a court order pursuant to Section 3201 of the Probate Code prior to administering a medical intervention which requires informed consent if the requirements of this section are met.

(j) Nothing in this section shall in any way affect the right of a resident of a skilled nursing facility or intermediate care facility for whom medical intervention has been prescribed, ordered, or administered pursuant to this section to seek appropriate judicial relief to review the decision to provide the medical intervention.

(k) No physician or other health care provider, whose action under this section is in accordance with reasonable medical standards, is subject to administrative sanction if the physician or health care provider believes in good faith that the action is consistent with this section and the desires of the resident, or if unknown, the best interests of the resident.

(*l*) The determinations required to be made pursuant to subdivisions (a), (e), and (g), and the basis for those determinations shall be documented in the patient's medical record and shall be made available to the patient's representative for review.

SEC. 356. Section 1451 of the Health and Safety Code is amended to read:

1451. (a) ~~The~~ *Except as otherwise provided in this section, the* board shall not let the care, maintenance, or attendance of the indigent sick or dependent poor by contract to any person. ~~However, in cases:~~

~~(1) Of unusual difficulty, or~~

~~(2) Which require treatment, or hospital services, or the use of facilities not immediately available in the county hospital, or~~

~~(3) Of emergency and for continued treatment after the emergency has ceased to exist,~~

~~the~~

(b) The board may secure for the indigent sick, and other persons admissible to the county hospital, at an agreed rate, hospital service, or any portion thereof, from any public or private hospital, clinic, rest home, sanitarium, or other suitable facility, or from any corporation formed under Section 9201 of the Corporations Code or under Chapter 11A (commencing with Section 11491) of Part 2~~,~~ *of* Division 2~~,~~ of the Insurance Code~~,~~ ~~and operating~~ *that operates* in the state~~.~~*, in the following cases:*

(1) Cases of unusual difficulty.

(2) Cases that require treatment, or hospital services, or the use of facilities not immediately available in the county hospital.

(3) Cases requiring emergency care or continued treatment after the emergency has ceased to exist.

~~(b)~~

(c) As used in this section, "hospital service" includes medical, surgical, radiological, laboratory, nursing service, convalescent care, and the furnishing of the necessary professional personnel, equipment, and facilities to manage the needs of patients on a continuing basis in accordance with accepted medical standards, with a staff of professional nursing personnel who are assigned and available under a clear and definite responsibility to the institution rendering the service for the provision of services to the patients, and ~~such~~ *any* other care, service, or supplies ~~as~~ *that* may be necessary for the treatment of the sick or injured.

~~(c)~~

(d) The county may also contract with licensed boarding homes for 24-hour care for dependent children under the age of 18 years~~,~~ when suitable facilities are not otherwise available in any institution or establishment maintained and operated by the county.

~~(d)~~

(e) The county may also contract for medical treatment of persons admissible to the county hospital with any licensed

physician and surgeon, or a corporation operating under Section 9201 of the Corporations Code.

~~(e)~~

(f) The county may also contract for health care services when the board determines that the hospital services or any portion thereof rendered by the county hospital should be coordinated with those provided by any other source.

SEC. 357. Section 1531.1 of the Health and Safety Code is amended to read:

1531.1. (a) A residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(c) Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

(d) Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions ~~Code~~ *Code)*.

(3) An interdisciplinary team, through the Individual Program Plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities

for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143~~ of the Health and Safety Code~~.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. The capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift.

SEC. 358. Section 1558 of the Health and Safety Code is amended to read:

1558. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any

employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct ~~which~~ *that* is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

(4) Engaged in any other conduct ~~which~~ *that* would constitute a basis for disciplining a licensee.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person ~~which~~ *that* shall notify the excluded person of

the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section~~, or~~. *The department may* enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or *prohibiting* the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded

person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

(h) (1) (A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 359. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature, in enacting this section, to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) (1) Before issuing a license to any person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in

paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit to the Department of Justice a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by this subdivision. If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to subdivision (a) of Section 1568.082. The department may also suspend the license pending an administrative hearing pursuant to subdivision (b) of ~~Section~~1568.082 *Section 1568.082*.

(b) In addition to the applicant, ~~the provisions of~~ this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the residential care facility for persons with chronic, life-threatening illness. The facility shall maintain the

copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for persons with chronic, life-threatening illness pursuant to Section 1568.092.

(4) (A) Any staff person, volunteer, or employee who has contact with the residents.

(B) A volunteer shall be exempt from ~~the requirements of~~ this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer does not provide direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, close friend, or family member and provides direct care and supervision to that resident only at the request of the resident. The department may define in regulations persons similar to those described in this subparagraph who may be exempt from ~~the requirements of~~ this subdivision.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints, for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (g), prior to the person's employment, residence, or initial presence in the residential care facility.

(B) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082. The State Department of Social Services may assess civil penalties for continued violations as allowed in Section 1568.0822. The fingerprints shall then be submitted to the State Department of Social Services for processing. The licensee shall maintain and make available for inspection documentation of the individual's clearance or exemption.

(2) A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082. The department may assess civil penalties for continued violations as permitted by Section 1568.0822.

(3) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of

Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and shall notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history record.

(4) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082.

(5) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(6) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and ~~Professional~~ *Professions* Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1568.092.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) (1) The Department of Justice shall charge a fee sufficient to cover its cost in providing services to comply with the 14-day requirement contained in subdivision (c) for provision to the department of criminal record information.

(2) Paragraph (1) shall cease to be implemented when the department adopts emergency regulations pursuant to Section 1522.04, and shall become inoperative when permanent regulations are adopted under that section.

(j) Amendments to the provisions of this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of

Investigation, which shall be implemented commencing January 1, 1999.

SEC. 360. Section 1568.092 of the Health and Safety Code is amended to read:

1568.092. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, aided, or permitted the violation by any other person of this chapter or of any rules or regulations adopted under this chapter.

(2) Engaged in conduct ~~which~~ *that* is inimical to the health, welfare, or safety of either an individual, in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1568.09.

(4) Engaged in any other conduct ~~which~~ *that* would constitute a basis for disciplining a licensee.

(5) ~~Engaging~~ *Engaged* in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the action of the department and of the right to an appeal of the excluded person. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the action of the department shall be final.

(c) (1) The department may require the immediate removal of an executive director, a board member, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the

matter when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person ~~which~~ *that* shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of

proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section~~, or~~. *The department may* enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or *prohibiting* the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1568.082.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 361. Section 1569.58 of the Health and Safety Code is amended to read:

1569.58. (a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct ~~which~~ *that* is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

(4) Engaged in any other conduct ~~which~~ *that* would constitute a basis for disciplining a licensee.

(5) ~~Engaging~~ *Engaged* in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person ~~which~~ *that* shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section~~, or~~. *The department may* enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or *prohibiting* the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified

foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 362. Section 1596.816 of the Health and Safety Code is amended to read:

1596.816. (a) The Community Care Licensing Division of the department shall regulate child care licensees through an organizational unit that is separate from that used to regulate all other licensing programs. The chief of the child care licensing branch shall report directly to the Deputy Director of the Community Care Licensing Division.

(b) All child care regulatory functions of the licensing division, including the adoption and interpretation of regulations, staff training, monitoring and enforcement functions, administrative support functions, and child care advocacy responsibilities shall be carried out by the child care licensing branch to the extent that separation of these activities can be accomplished without new costs to the department.

(c) Those persons conducting inspections of ~~—a~~ day care facilities shall meet qualifications approved by the State Personnel Board.

(d) The department shall notify the appropriate legislative committees whenever actual staffing levels of licensing program analysts within the child care licensing branch drops more than 10 percent below authorized positions.

(e) The budget for the child care licensing branch shall be included as a separate entry within the budget of the department.

SEC. 363. Section 1596.847 of the Health and Safety Code is amended to read:

1596.847. (a) A child day care facility shall not use or have on the premises, on or after July 1, 1998, a full-size or non-full-size crib that is unsafe for any infant using the crib, as described in Article 1 (commencing with Section 24500) of Chapter 4.7 of Division 20. This subdivision shall not apply to

any antique or collectible crib ~~provided~~ *if* it is not used by, or accessible to, any child in the child day care facility.

(b) The State Department of Social Services shall provide information and instructional materials regarding sudden infant death syndrome, explaining the medical effects upon infants and young children and emphasizing measures that may reduce the risk, free of charge to any child care facility licensed to provide care to children under the age of two years. This shall occur upon licensure and, on a one-time basis only, at the time of a regularly scheduled site visit.

(c) To the maximum extent practicable, the materials provided to child care facilities shall substantially reflect the information contained in materials approved by the State Department of Health Services for public circulation. The State Department of Health Services shall make available, to child care facilities, free of charge, information in camera-ready typesetting format. Nothing in this section prohibits the State Department of Social Services from obtaining free and suitable information from any other public or private agency. The information and instructional materials provided pursuant to this section shall focus upon the serious nature of the risk to infants and young children presented by sudden infant death syndrome.

~~(e)~~

(d) The requirement that informational and instructional materials be provided pursuant to this section applies only when those materials have been supplied to those persons or entities that are required to provide the materials. The persons or entities required to provide these materials shall not be subject to any legal cause of action whatsoever based on the requirements of this section.

~~(f)~~

(e) For persons or agencies providing these materials pursuant to this section, this section does not require the provision of duplicative or redundant informational and instructional materials.

SEC. 364. Section 1596.8865 of the Health and Safety Code is amended to read:

1596.8865. (a) When a local child protective agency, as defined in Section 11165 of the Penal Code, has a reasonable suspicion, as defined in subdivision (a) of Section 11166 of the

Penal Code, that the death or serious injury of a child occurred at a child day care facility because of abuse or willful neglect by the personnel of the child day care facility, the agency shall immediately notify the director.

(b) Within two working days of receipt of the evidence that the death or serious injury occurred at a child day care facility because of abuse or willful neglect by the personnel of the child day care facility, the department shall temporarily suspend the license, registration, or special permit of the facility, and shall immediately notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time serve the provider with an accusation. The hearing shall be set and conducted in the manner provided in Section 1596.886, and the temporary suspension shall have the same effect and duration as provided in Section 1596.886.

(c) The director shall request that~~, and~~ the city police, county sheriff, or other law enforcement agencies, and any other county agencies, investigating the death or serious injury of the child shall~~,~~ expedite and coordinate evidence gathering in the case, and ~~make the evidence available~~, to the extent that providing the evidence will not adversely affect any criminal prosecution, *make that evidence available* as soon as possible for the purposes of the hearing on the temporary suspension.

(d) As used in this section, "serious injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

SEC. 365. Section 1596.8897 of the Health and Safety Code is amended to read:

1596.8897. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct ~~which~~ *that* is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1596.871.

(4) Engaged in any other conduct ~~which~~ *that* would constitute a basis for disciplining a licensee.

(5) ~~Engaging~~ *Engaged* in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person ~~which~~ *that* shall notify the excluded person of

the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the employee or prospective employee pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a *written* appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section~~, or~~. *The department may* enter an order prohibiting any person from being a member of the board of directors, the executive director, or an officer of a licensee ~~or~~ *prohibiting* the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded

person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 366. Section 1765.145 of the Health and Safety Code is amended to read:

1765.145. *(a)* A licensee using mobile services pursuant to this chapter shall, at the ~~state~~ department's option, be periodically inspected, in addition to any inspections required pursuant to the

parent facility licensure requirements, by a duly authorized representative of the ~~state~~ department. Reports of each inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the ~~state~~ department and filed with the ~~state~~ department. The inspection shall be for the purpose of ensuring that this chapter and the rules and regulations of the ~~state~~ department adopted under this chapter are being followed.

(b) Any officer, employee, or agent of the ~~state~~ department may enter and inspect any building, premises, or vehicle and may have access to and inspect any document, file, or other record, of a mobile unit or of a parent facility operating a mobile unit, at any reasonable time to assure compliance with, or to prevent violation of, this chapter.

(c) After the initial licensure, or the initial approval of the addition to existing licensure of a parent facility, the mobile unit shall be periodically reviewed for compliance. When approved as additions to the existing licensure of a parent facility, reviews shall be conducted as a part of the parent facility's regular inspection. When the mobile unit is an independently licensed clinic, it shall be reviewed in accordance with the licensing inspection schedule for clinics.

(d) Demonstration of a mock emergency drill shall be observed by ~~state~~ department staff in the mobile unit on a site where patient mobility is limited.

SEC. 367. Section 4730.8 of the Health and Safety Code is amended to read:

4730.8. *(a)* Notwithstanding ~~the provisions of~~ Sections~~,~~ 4730, 4730.1, and 4730.2, or any other provision of law, the governing board of a sanitation district in the County of Riverside that includes no territory within a city shall be the county board of supervisors.

(b) The sanitation district may include all or a part of the territory of one or more previously existing sanitary districts that lie within the unincorporated territory of the county.

(c) If the sanitation district includes any part of a sanitary district, the sanitation district shall not perform any of the functions of the sanitary district within the boundaries of the sanitary district if the sanitary district has performed that function within the 10 years immediately preceding January 1, 1994.

(d) The sanitation district may handle, treat, and manage solid waste, as defined pursuant to the California Integrated Waste Management Act of 1989~~, Division~~ *(Division* 30 (commencing with Section 40000) of the Public Resources ~~Code~~ *Code)*, in the same manner as the County of Riverside is authorized pursuant to that act.

SEC. 368. Section 11162.1 of the Health and Safety Code is amended to read:

11162.1. (a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermo-chromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form and the following quantities shall appear:

1-24
25-49
50-74
75-100
101-150
151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, *and* federal controlled substance registration number of the prescribing practitioner.

(10) A check box indicating the prescriber's order not to substitute.

(11) An identifying number assigned to the approved security printer by the Department of Justice.

(12) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by ~~their~~ *his or her* name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility, the clinic specified in Section 1200, or the clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons, preprinted on the form.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and ~~the~~ quantity of

controlled substance prescription forms issued to each prescriber ~~and~~. *The record shall* be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to ~~the requirements set forth in~~ subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) This section shall become operative on July 1, 2004.

SEC. 369. Section 11502 of the Health and Safety Code is amended to read:

11502. *(a)* All moneys, forfeited bail, or fines received by any court under this division shall as soon as practicable after the receipt thereof be deposited with the county treasurer of the county in which ~~such~~ *the* court is situated. Amounts so deposited shall be paid at least once a month as follows: 75 percent to the State Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of ~~said~~ *the* court to be deposited in the State Treasury on order of the State Controller; and 25 percent to the city treasurer of the city, if the offense occurred in a city, otherwise to the treasurer of the county in which the prosecution is conducted.

(b) Any money deposited in the State Treasury under ~~the provisions of~~ this section ~~which~~ *that* is determined by the State Controller to have been erroneously deposited therein shall be refunded by him *or her*, subject to *the* approval of the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* prior to the payment of ~~such~~ *the* refund, out of any ~~money~~ *moneys* in the State Treasury ~~which is~~ *that are* available by law for ~~such~~ *that* purpose.

SEC. 370. Section 11571.1 of the Health and Safety Code is amended to read:

11571.1. (a) To effectuate the purposes of this article, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure,

with respect to a controlled substance purpose. In filing this action, which shall be based upon an arrest report or on another action or report by a regulatory or law enforcement agency, the city prosecutor or city attorney shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) (A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and shall be served upon the owner and the tenant in accordance with subdivision (e) ~~of this section~~.

(C) The notice to the tenant shall also include on the bottom of its front page, in at least 14-point bold type, the following:

"Notice to Tenant: This notice is not a notice of eviction. However, you should know that an eviction action may soon be filed in court against you for suspected drug activity, as described above. You should call (insert name and telephone number of the city attorney or prosecutor pursuing the action) or legal aid to stop the eviction action if any of the following is applicable:

(i) You are not the person named in this notice.

(ii) The person named in the notice does not live with you.

(iii) The person named in the notice has permanently moved.

(iv) You do not know the person named in the notice.

(v) You have any other legal defense or legal reason to stop the eviction action.

A list of legal assistance providers is attached to this notice. Some provide free legal help if you are eligible."

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to

the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars ($600).

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) Nothing in this article shall prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to drug abatement. Where local laws duplicate or supplement this article, this article shall be construed as providing alternative remedies and not preempting the field.

(5) Nothing in this article shall prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For the purposes of this section, "controlled substance purpose" means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351, 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383, if the offense occurs on the subject real property and is documented by the observations of a peace officer.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under

penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall only apply to the following courts:

(1) In the County of Los Angeles, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles or in the City of Long Beach.

(2) In the County of San Diego, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of San Diego.

(3) In the County of Alameda, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Oakland.

(g) (1) The city attorney and city prosecutor of each participating jurisdiction shall provide to the Judicial Council the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) The number of cases filed by an owner, upon notice.

(C) The number of assignments executed by owners to the city attorney or city prosecutor.

(D) The number of three-day, 30-day, or 60-day notices issued by the city attorney or city prosecutor.

(E) The number of cases filed by the city attorney or city prosecutor.

(F) The number of times that an owner is joined as a defendant pursuant to this section.

(G) As to each case filed by an owner, the city attorney, or the city prosecutor, the following information:

(i) The number of judgments ordering an eviction or partial eviction (specify whether default, stipulated, or following trial).

(ii) The number of cases, listed by separate categories, in which the case was withdrawn or in which the tenant prevailed.

(iii) The number of other dispositions (specify disposition).

(iv) The number of defendants represented by counsel.

(v) Whether the case was a trial by the court or a trial by a jury.

(vi) Whether an appeal was taken, and, if so, the result of the appeal.

(vii) The number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction.

(H) As to each case in which a notice was issued, but no case was filed, the following information:

(i) The number of instances in which a tenant voluntarily vacated the unit.

(ii) The number of instances in which a tenant vacated a unit prior to the providing of the notice.

(iii) The number of cases in which the notice provided pursuant to subdivision (a) was erroneously sent to the tenant. (List reasons, if known, for the erroneously sent notice, such as reliance on information on the suspected controlled substance law violator's name or address that was incorrect; clerical error; or any other ~~reason)~~ *reason.)*

(iv) The number of other resolutions (specify resolution).

(2) (A) Information compiled pursuant to this section shall be reported annually to the Judicial Council on or before January 30 of each year.

(B) The Judicial Council shall thereafter submit a brief report to the Senate and Assembly Committees on the Judiciary once on or before April 15, 2007, and once on or before April 15, 2009, summarizing the information collected pursuant to this section and evaluating the merits of the pilot programs established by this section.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 371. Section 12701 of the Health and Safety Code is amended to read:

12701. A person is guilty of a separate offense for each day during which he *or she* commits, continues, or permits a violation of this part ~~or any provision of~~, or any order~~,~~ *or* regulation issued pursuant to~~,~~ this part.

SEC. 372. Section 13052 of the Health and Safety Code is amended to read:

13052. *(a)* The public entity rendering the service may present a claim to the public entity liable therefor. If the claim is approved by the head of the fire department, if any, in the public entity to which *the claim is* presented, and by its governing body,

it shall be paid in the same manner as other charges and if *the claim is* not paid, an action may be brought for its collection.

(b) Notwithstanding any other provision of this section, any claims against the state shall be presented to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

SEC. 373. Section 17021.6 of the Health and Safety Code is amended to read:

17021.6. (a) The owner of any employee housing who has qualified or intends to qualify for a permit to operate pursuant to this part may invoke this section.

(b) Any employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a ~~singe~~ *single* family or household shall be deemed an agricultural land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in an agricultural zone shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural activities in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or

regulation or local ordinance, with respect to employee housing that serves 12 or fewer persons.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity.

(f) If any owner who invokes the provisions of this section fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments, or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

SEC. 374. Section 18080.5 of the Health and Safety Code is amended to read:

18080.5. (a) A numbered report of sale, lease, or rental form issued by the department shall be submitted each time the following transactions occur by or through a dealer:

(1) Whenever a manufactured home, mobilehome, or commercial coach previously registered pursuant to this part is sold, leased with an option to buy, or otherwise transferred.

(2) Whenever a manufactured home, mobilehome, or commercial coach not previously registered in this state is sold, rented, leased, leased with an option to buy, or otherwise transferred.

(b) The numbered report of sale, lease, or rental forms shall be used and distributed in accordance with the following terms and conditions:

(1) A copy of the form shall be delivered to the purchaser.

(2) All fees and penalties due for the transaction that were required to be reported with the report of sale, lease, or rental form shall be paid to the department within 10 calendar days from the date the transaction is completed, as specified by subdivision (e). Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the consumer for those penalties.

(3) Notice of the registration or transfer of a manufactured home or mobilehome shall be reported pursuant to subdivision (d).

(4) The original report of sale, lease, or rental form, together with all required documents to report the transaction or make application to register or transfer a manufactured home, mobilehome, or commercial coach, shall be forwarded to the department. Any application shall be submitted within 10 calendar days from the date the transaction was required to be reported, as defined by subdivision (e).

(c) A manufactured home, mobilehome, or commercial coach displaying a copy of the report of sale, lease, or rental may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(d) In addition to the other requirements of this section, every dealer upon transferring by sale, lease, or otherwise any manufactured home or mobilehome shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the manufactured home or mobilehome is to be installed. The written notice shall be upon forms provided by the department

containing any information that the department may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(e) For purposes of this section, a transaction by or through a dealer shall be deemed completed and consummated and any fees and the required report of sale, lease, or rental ~~is~~ *are* due when any of the following occurs:

(1) The purchaser of any commercial coach has signed a purchase contract or security agreement or paid any purchase price, the lessee of a new commercial coach has signed a lease agreement or lease with an option to buy or paid any purchase price, or the lessee of a used commercial coach has either signed a lease with an option to buy or paid any purchase price, and the purchaser or lessee has taken physical possession or delivery of the commercial coach.

(2) For sales subject to Section 18035, when all the amounts other than escrow fees and amounts for uninstalled or undelivered accessories are disbursed from the escrow account.

(3) For sales subject to Section 18035.2, when the installation has been completed and a certificate of occupancy has been issued.

SEC. 375. Section 19161 of the Health and Safety Code is amended to read:

19161. (a) Each city, city and county, or county, may assess the earthquake hazard in its jurisdiction and identify buildings subject to its jurisdiction as being potentially hazardous to life in the event of an earthquake. Potentially hazardous buildings include the following:

(1) Unreinforced masonry buildings constructed prior to the adoption of local building codes requiring earthquake resistant design of buildings~~,~~ *that* are constructed of unreinforced masonry wall construction~~,~~ and exhibit any of the following characteristics:

(A) Exterior parapets or ornamentation that may fall.

(B) Exterior walls that are not anchored to the floors or roof.

(C) ~~Lacks~~ *Lack of* an effective system to resist seismic forces.

(2) Woodframe, multiunit residential buildings constructed before January 1, 1978, where the ground floor portion of the

structure contains parking or other similar open floor space that causes soft, weak, or open-front wall lines, as provided in a nationally recognized model code relating to the retrofit of existing buildings or substantially equivalent standards.

(b) Structural evaluations made pursuant to this section shall be made by an architect as defined in Section 5500 of the Business and Professions Code, or a civil or structural engineer registered pursuant to ~~the provisions of~~ Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or staff of the enforcing agency, as described in Section 17960, supervised by an architect or civil or structural engineer authorized by this subdivision to make the structural evaluations.

SEC. 376. Section 19165 of the Health and Safety Code is amended to read:

19165. Any city, city and county, or county adopting an ordinance establishing ~~seismically hazardous~~ building seismic retrofit standards *for seismically hazardous buildings* shall file for informational purposes with the Department of Housing and Community Development a copy of those standards and all subsequent amendments.

SEC. 377. Section 19982 of the Health and Safety Code is amended to read:

19982. (a) The department by rule and regulation shall establish a schedule of fees to pay the costs incurred by the department for the work related to *the* administration and enforcement of this part. Notwithstanding Section 13340 of the Government Code, the fees collected shall be placed in the Mobilehome-Manufactured Home Revolving Fund established by Section 18016.5, and are continuously appropriated to the department for expenditure in carrying out ~~the provisions of~~ this part.

(b) The total *amount of* money ~~collect~~ *collected* pursuant to this part and contained in the Mobilehome-Manufactured Home Revolving Fund on June 30 of each fiscal year shall not exceed the amount needed for operating expenses for one year for the enforcement of this part. If the total *amount of* money collected pursuant to this part in the fund exceeds this amount, the department shall make appropriate reductions in the schedule of fees authorized by this section.

SEC. 378. Section 25159.12 of the Health and Safety Code is amended to read:

25159.12. For purposes of this article, the following definitions apply:

(a) "Annulus" means the space between the outside edge of the injection tube and the well casing.

(b) "State board" means the State Water Resources Control Board.

(c) "Compatibility" means that waste constituents do not react with each other, with the materials constituting the injection well, or with fluids or solid geologic media in the injection zone or confining zone in a manner as to cause leaching, precipitation of solids, gas or pressure buildup, dissolution, or any other effect ~~which~~ *that* will impair the effectiveness of the confining zone or the safe operation of the injection well.

(d) "Confining zone" means the geological formation, or part of a formation, ~~which~~ *that* is intended to be a barrier to prevent the migration of waste constituents from the injection zone.

(e) "Constituent" means an element, chemical, compound, or mixture of compounds ~~which~~ *that* is a component of a hazardous waste or leachate and ~~which~~ *that* has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department pursuant to this chapter.

(f) "Discharge" means to place, inject, dispose of, or store hazardous wastes into, or in, an injection well owned or operated by the person who is conducting the placing, disposal, or storage.

(g) "Drinking water" has the same meaning as "potential source of drinking water," as defined in subdivision (t) of Section 25208.2.

(h) "Facility" means the structures, appurtenances, and improvements on the land, and all contiguous land, ~~which~~ *that* are associated with an injection well, ~~which~~ *and* are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units, including, but not limited to, surface impoundments, landfills, underground or aboveground tanks, sumps, pits, ponds, and lagoons, ~~which~~ *that* are associated with an injection well.

(i) "Groundwater" means water, including, but not limited to, drinking water, below the land surface in a zone of saturation.

(j) "Hazardous waste" means any hazardous waste specified as hazardous waste or extremely hazardous waste, as defined in this chapter. Any waste mixture formed by mixing any waste or substance with a hazardous waste shall be considered hazardous waste for the purposes of this article.

(k) "Hazardous waste facilities permit" means a permit issued for an injection well pursuant to Sections 25200 and 25200.6.

(*l*) "Injection well" or "well" means any bored, drilled, or driven shaft, dug pit, or hole in the ground ~~whose~~ *the* depth *of which* is greater than the circumference of the bored hole and any associated subsurface appurtenances, including, but not limited to, the casing. For the purposes of this article, injection well does not include either of the following:

(1) Wells exempted pursuant to Section 25159.24.

(2) Wells ~~which~~ *that* are regulated by the Division of Oil and Gas in the Department of Conservation pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code and Subpart F *(commencing with Section 147.250) of Subchapter D of Chapter 1* of Part 147 of Title 40 of the Code of Federal Regulations and are in compliance with that division and Subpart A (commencing with Section 146.1) *of Part 147* of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

(m) "Injection zone" means that portion of the receiving formation ~~which~~ *that* has received, is receiving, or is expected to receive, over the lifetime of the well, waste fluid from the injection well. "Injection zone" does not include that portion of the receiving formation ~~which~~ *that* exceeds the horizontal and vertical extent specified pursuant to Section 25159.20.

(n) "Owner" means a person who owns a facility or part of a facility.

(o) "Perched water" means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(p) "pH" means a measure of a sample's acidity expressed as a negative logarithm of the hydrogen ion concentration.

(q) "Qualified person" means a person who has at least five years of full-time experience in hydrogeology and who is a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered petroleum engineer registered pursuant to Section 6762 of the Business and

Professions Code. "Full-time experience" in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(r) "Receiving formation" means the geologic strata that are hydraulically connected to the injection well.

(s) "Regional board" means the California regional water quality control board for the region in which the injection well is located.

(t) "Report" means the hydrogeological assessment report specified in Section ~~25179.7~~ *25159.18*.

(u) "Safe Drinking Water Act" means Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code.

(v) "Strata" means a distinctive layer or series of layers of earth materials.

(w) "Waste management unit" means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

SEC. 379. Section 25200.6 of the Health and Safety Code is amended to read:

25200.6. (a) The department shall not issue a hazardous waste facilities permit for an injection well or for the discharge of hazardous waste into an injection well unless all of the following conditions are met:

(1) A hydrogeological assessment report has been approved pursuant to Section 25159.18.

(2) The groundwater monitoring required by Section 25159.16 is included as a permit condition.

(3) The department finds that the hazardous wastes to be discharged cannot be reasonably and adequately reduced, treated, or disposed of by an alternative method other than well injection. This finding shall be in writing and shall be supported by evidence citing specific evidence presented to the department or evidence ~~which~~ *that* is otherwise made available to the department. The department shall provide public notice and opportunity for comment before making this finding.

(4) The horizontal and vertical extent of the permitted injection zone specified pursuant to Section 25159.20 is included as a permit condition.

(5) The permit complies with and incorporates as a permit condition any waste discharge requirements issued by the state board or a regional board and the permit is consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and with the state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, and any amendments made to these plans, policies, or requirements. The department may also include any more stringent requirement ~~which~~ *that* the department determines is necessary or appropriate to protect water quality.

(b) Notwithstanding the requirement to submit a hydrogeological assessment report before application for a hazardous waste facility permit under Section ~~25259. 18~~ *25159.18*, or notwithstanding the requirement to have a hazardous waste facility permit or an approved hydrogeological assessment report before application for an exemption pursuant to subdivision (b) of Section 25159.15, the department shall process any applications for a hazardous waste facility permit to construct a new injection well from any person who has applied between May 15, 1984, and December 31, 1984, for an underground injection control permit from the federal Environmental Protection Agency pursuant to the Safe Drinking Water Act *(42 U.S.C. Sec. 300f et seq.),* and who has received that permit by July 1, 1986, in the following manner:

(1) The department shall accept a concurrent filing of the hydrogeological assessment report required pursuant to Section 25159.18, the application for the hazardous waste facilities permit filed pursuant to this section, and an application for an exemption filed pursuant to subdivision (b) of Section 25159.15.

(2) The department shall grant or deny the hazardous waste facilities permit within six months of the concurrent filing of a completed application as specified in paragraph (1). However, the department shall grant the hazardous waste facilities permit only if the conditions in subdivision (a) are met.

SEC. 380. Section 25205.1 of the Health and Safety Code is amended to read:

25205.1. For purposes of this article, the following definitions apply:

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

(b) "Facility" means any units or other structures, and all contiguous land, used for the treatment, storage, disposal, or recycling of hazardous waste, for which a permit or a grant of interim status has been issued by the department for that activity pursuant to Article 9 (commencing with Section 25200).

(c) "Large storage facility," in those cases ~~where~~ *in which* total storage capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a storage facility with capacity to store 1,000 or more tons of hazardous waste. In those cases ~~where~~ *in which* it is not so provided, "large storage facility" means a storage facility ~~which~~ *that* stores 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(d) "Large treatment facility," in those cases ~~where~~ *in which* total treatment capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a treatment facility with capacity to treat, land treat, or recycle 1,000 or more tons of hazardous waste. In those cases ~~where~~ *in which* it is not so provided, "large treatment facility" means a treatment facility ~~which~~ *that* treats, land treats, or recycles 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(e) "Generator" means a person who generates hazardous waste at an individual site commencing on or after July 1, 1988. A generator includes, but is not limited to, a person who is identified on a manifest as the generator and whose identification number is listed on that manifest, if that identifying information was provided by that person or by an agent or employee of that person.

(f) "Ministorage facility," in those cases ~~where~~ *in which* total storage capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a storage facility with capacity to store 0.5 tons (1,000 pounds) or less of hazardous waste. In those cases ~~where~~ *in which* it is not so provided, "ministorage facility" means a storage facility ~~which~~

that stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(g) "Minitreatment facility," in those cases ~~where~~ *in which* total treatment capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a treatment facility with capacity to treat, land treat, or recycle 0.5 tons (1,000 pounds) or less of hazardous waste. In those cases ~~where is~~ *in which* it *is* not so provided, "minitreatment facility, means a treatment facility ~~which~~ *that* treats, land treats, or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(h) "Site" means the location of an operation ~~which~~ *that* generates hazardous wastes and ~~which~~ is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility," in those cases ~~where~~ *in which* total storage capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a storage facility with capacity to store more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste. In those cases ~~where~~ *in which* it is not so provided, "small storage ~~facility,~~ *facility"* means a storage facility ~~which~~ *that* stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(j) "Small treatment facility," in those cases ~~where~~ *in which* total treatment capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a treatment facility with capacity to treat, land treat, or recycle more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste. In those cases ~~where it~~ *in which this* is not ~~so~~ provided, "small treatment ~~facility,"~~ *facility"* means a treatment facility ~~which~~ *that* treats, land treats, or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month of the current reporting period commencing on or after July 1, 1991.

(k) "Unit" means a hazardous waste management unit, as defined in regulations adopted by the department. ~~Where~~ *If* an

area is designated as a hazardous waste management unit in a permit, it shall be conclusively presumed that the area is a "unit."

(*l*) "Class 1 modification," "class 2 modification," and "class 3 modification" have the meanings provided in regulations adopted by the department.

(m) "Hazardous waste" has the meaning provided in Section 25117. The total tonnage of hazardous waste, unless otherwise provided by law, includes the hazardous substance as well as any soil or other substance ~~which~~ *that* is commingled with the hazardous substance.

(n) "Land treat" means to apply hazardous waste onto or incorporate it into the soil surface for the sole and express purpose of degrading, transforming, or immobilizing the hazardous constituents.

(o) "Treatment," "storage," and "disposal" ~~means~~ *mean* only that treatment, storage, or disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment, storage, or disposal that does not require ~~such a~~ *this* permit or grant of interim status shall not be considered treatment, storage, or disposal for purposes of this article.

(1) "Disposal" includes only the placement of hazardous waste onto or into the ground for permanent disposition and does not include the placement of hazardous waste in surface impoundments, as defined in regulations adopted by the department, or the placement of hazardous waste onto or into the ground solely for purposes of land treatment.

(2) "Storage" does not include the ongoing presence of hazardous wastes in the ground or in surface impoundments after the facility has permanently discontinued accepting new hazardous wastes for placement into the ground or into surface impoundments.

SEC. 381. Section 25208.2 of the Health and Safety Code is amended to read:

25208.2. For purposes of this article, the following definitions apply:

(a) "Active life of the facility" means that period of time when the facility has the potential to adversely affect the waters of the state, but if the owner enters into an agreement with the board to

properly close the impoundment on a specified date, the active life of the facility means that period of time up to that specified date.

(b) "Background water quality" means the level of concentration of indicator parameters in groundwater that is not, or has not been, affected by any hazardous waste, hazardous waste constituent, or hazardous waste leachate emanating from a particular waste management unit.

(c) "Board" or "state board" means the State Water Resources Control Board.

(d) "Close the impoundment" means the permanent termination of all hazardous waste discharge operations at a waste management unit and any operations necessary to prepare that waste management unit for postclosure maintenance ~~which~~ *that* are conducted pursuant to the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), and the regulations adopted by the state board and the department concerning the closure of surface impoundments.

(e) "Constituent" means an element, chemical compound, or mixture of compounds ~~which~~ *that* is a component of a hazardous waste or leachate and ~~which~~ has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department.

(f) "Discharge" means to place, dispose of, or store liquid hazardous wastes or hazardous wastes containing free liquids into or in a surface impoundment owned or operated by the person who is conducting the placing, disposal, or storage.

(g) "Emergency containment dike" means a berm ~~which~~ *that* is located around a tank solely for the purpose of containing any emergency spills from the tank and ~~which~~ does not contain any liquid hazardous waste or hazardous wastes containing free liquids for longer than 48 hours.

(h) "Facility" means the structures, appurtenances, and improvements on the land, and all contiguous land, ~~which~~ *that* are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units.

(i) "Free liquids" means liquids ~~which~~ *that* readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.

(j) “Groundwater” means water below the land surface in a zone of saturation.

(k) “Hazardous waste” means a waste that is a hazardous waste, as specified in this chapter.

(*l*) “Indicator parameters” means the measureable physical or chemical characteristics in groundwater or soil-pore moisture ~~which~~ *that* are likely to be affected by hazardous waste disposal operations and ~~which~~ are used, for comparison purposes, to assess the result of hazardous waste disposal operations at a particular waste management unit on the waters of the state.

(m) “Landfill” means a facility or part of a facility where hazardous waste is placed in or on land for disposal and ~~which~~ *that* is not a land farm, surface impoundment, or an injection well.

(n) “Leachate” means any fluid, including any constituents in the liquid, that has percolated through, migrated from, or drained from, a hazardous waste management unit.

(o) “Owner” means a person who owns a facility or part of a facility.

(p) “Perched water” means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(q) “pH” means a measure of a sample’s acidity expressed as a negative logarithm of the hydrogen ion concentration.

(r) “Pile” means any noncontainerized accumulation of solid, nonflowing hazardous waste ~~which~~ *that* is used for the purpose of treatment or storage.

(s) “Pollution” has the same meaning as defined in Section 13050 of the Water Code.

(t) “Potential source of drinking water” means either water ~~which~~ *that* is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses and ~~which~~ is potable, or water ~~which~~ *that* is located in water-bearing strata ~~which~~, is an underground source of drinking water, as defined in Section 146.3 of Title 40 of the Code of Federal Regulations, and ~~which is~~ *does* not *meet the criteria for* an exempted ~~acquifer~~ *aquifer*, ~~as defined in~~ *pursuant to* Section 146.4 of Title 40 of the Code of Federal Regulations.

(u) “Qualified person” means a person who has at least five years of full-time experience in hydrogeology and who is a

certified engineering geologist certified pursuant to Section 7842 of the Business and Professions Code, a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered civil engineer registered pursuant to Section 6762 of the Business and Professions Code. "Full-time experience" in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(v) "Regional board" means the California regional water quality control board for the region in which the surface impoundment is located.

(w) "Report" means the hydrogeological assessment report specified in Section 25208.8.

(x) "Surface impoundment" or "impoundment" means a waste management unit ~~which~~ *that* is a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials, although it may be lined with artificial materials, ~~which~~ *that* is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids, including, but not limited to, holding, storage, settling, or aeration pits, evaporation ponds, percolation ponds, other ponds, and lagoons. Surface impoundment does not include a landfill, a land farm, a pile, *an* emergency containment dike, *a* tank, or an injection well.

(y) "Tank" means a stationary device, designed to contain an accumulation of hazardous waste, ~~which~~ *that* is constructed primarily of nonearthen materials, such as fiberglass, steel, or plastic to provide structural support, and ~~which~~ has been issued a permit pursuant to Section ~~25283~~ *25284*.

(z) "Vadose zone" means the zone between the land surface and the water table.

(aa) "Waste management unit" means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

SEC. 382. Section 25208.8 of the Health and Safety Code is amended to read:

25208.8. A person who receives a notice from a regional board~~,~~ pursuant to Section 25208.7~~,~~ or who files an application for an exemption pursuant to Section 25208.5 or 25208.13, shall submit a hydrogeological assessment report to the regional board. A qualified person shall be responsible for the preparation of the report and shall certify its completeness and accuracy. The report shall contain, for each surface impoundment, any information required by the state board or the regional board, and all of the following information:

(a) A description of the surface impoundment, including its physical characteristics, its age, the presence or absence of a liner, a description of the liner, the liner's compatibility with the hazardous wastes discharged to the impoundment, and the design specifications of the impoundment.

(b) A description of the volume and concentration of hazardous waste constituents placed in the surface impoundment, based on a representative chemical analysis of the specific hazardous waste type and accounting for variance in hazardous waste constituents over time.

(c) A map showing the distances, within the facility, to the nearest surface water bodies and springs, and the distances, within one mile from the facility's perimeter, to the nearest surface water bodies and springs.

(d) Tabular data for each surface water body and spring shown on the map specified in subdivision (c) ~~which~~ *that* indicate its flow and a representative water analysis. The report shall include an evaluation and characterization of seasonal changes and, if substantive changes result from season to season, the tabular data shall reflect these seasonal changes.

(e) A map showing the location of all wells within the facility and the locations of all wells within one mile of the facility's perimeter. The report shall include, for each well, a description of the present use of the well, a representative water analysis from the well, and, when possible, the water well driller's report or well log.

(f) An analysis of the vertical and lateral extent of the perched water and water-bearing strata ~~which~~ *that* could be affected by leachate from the surface impoundment, and the confining beds under and adjacent to the surface impoundment. This analysis shall include all of the following:

(1) Maps showing contours of equal elevation of the water surface for perched water, unconfined water, and confined groundwater required to be analyzed by this subdivision.

(2) An estimate of the groundwater flow, direction of the perched water, and all water-bearing strata on both the maps and the subsurface geologic cross sections.

(3) An estimate of the transmissivity, permeability, and storage coefficient for each perched zone of water and water-bearing strata identified on the maps specified in paragraph (1).

(4) A determination of the rate of groundwater flow.

(5) A determination of the water quality of each zone of the water-bearing strata and perched water ~~which~~ *that* is identified on the maps specified in paragraph (1) and ~~which~~ is under, or adjacent to, the facility. This determination shall be conducted by taking samples either from upgradient of the surface impoundment or from another location ~~which~~ *that* has not been affected by leakage from the surface impoundment.

(g) An indication as to whether the groundwater is contiguous with regional bodies of groundwater and the depth measured to the groundwater, including the depth measured to perched water and water-bearing strata identified on the maps specified in paragraph (1) *of subdivision (f)*.

(h) The following climatological information:

(1) A map showing the contours for the mean annual long-term precipitation for the surrounding region within 10 miles of the surface impoundment.

(2) Calculations estimating the maximum 24-hour precipitation and maximum and minimum annual precipitation at the facility based upon direct measurement at the facility or upon measured values of precipitation from a nearby climatologically similar station.

(3) The projected volume and pattern of runoff for any streams ~~which~~ *that*, in a 100-year interval, could ~~effect~~ *affect* the facility, including peak stream discharges associated with storm conditions.

(i) A description of the composition of the vadose zone beneath the surface impoundment. This description shall include a chemical and hydrogeological characterization of both the consolidated and unconsolidated rock material underlying the

surface impoundment, and an analysis for pollutants, including those constituents discharged into the surface impoundment. This description shall also include soil moisture readings from a representative number of points around the surface impoundment's perimeter and at the maximum depth of the surface impoundment. If the regional board determines that the use of suction type soil sampling devices ~~are~~ *is* infeasible due to climate, soil hydraulics, or soil texture, the regional board may authorize the use of alternative devices. The report shall arrange all monitoring data in a tabular form so that the data, the constituents, and the concentrations are readily discernible.

(j) A measurement of the chemical characteristics of the soil made by collecting a soil sample upgradient from the impoundment or from an area ~~which~~ *that* has not been affected by seepage from the surface impoundment and ~~which~~ is in a hydrogeologic environment similar to the surface impoundment. The measurement shall be analyzed for the same pollutants analyzed pursuant to subdivision (i).

(k) A description of the existing monitoring being conducted to detect leachate, including vadose zone monitoring, the number and positioning of the monitoring wells, the monitoring wells' distances from the surface impoundment, the monitoring wells' design data, the monitoring wells' installation, the monitoring development procedures, the sampling methodology, the sampling frequency, the chemical constituents analyzed, and the analytical methodology. The design data of the monitoring wells shall include the monitoring wells' depth, the monitoring wells' diameters, the monitoring wells' casing materials, the perforated intervals within the well, the size of the perforations, the gradation of the filter pack, and the extent of the wells' annular seals.

(*l*) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage before the hazardous waste constituents enter the waters of the state. This documentation shall include, but is not limited to, substantiation of each of the following:

(1) The monitor wells are located close enough to the surface impoundment to identify lateral and vertical migration of any constituents discharged to the impoundment.

(2) The monitoring wells are not located within the influence of any adjacent pumping wells ~~which~~ *that* might impair their effectiveness.

(3) The monitor wells are only screened in the aquifer to be monitored.

(4) The chosen casing material does not interfere with, or react to, the potential contaminants of major concern at the facility.

(5) The casing diameter allows an adequate amount of water to be removed during sampling and allows full development of the monitor well.

(6) The annular seal prevents pollutants from migrating down the monitor well.

(7) The methods of water sample collection require that the sample is collected after at least five well volumes have been removed from the well and that the samples are transported and handled in accordance with the United States Geological Survey's "National Handbook of Recommended Methods for Water-Data Acquisition," which provides guidelines for collection and analysis of groundwater samples for selected unstable constituents. If the wells are low-yield wells, in that the wells are incapable of yielding three well volumes during a 24-hour period, the methods of water sample collection shall ~~insure~~ *ensure* that a representative sample is obtained from the well.

(8) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition of hazardous wastes previously placed in the surface impoundment. The monitoring data shall be arranged in tabular form so that the date, the constituents, and the concentrations are readily discernible.

(9) The frequency of monitoring is sufficient to give timely warning of leachate so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.

(10) A written statement from the qualified person preparing the report indicating whether any constituents have migrated into the vadose zone, surface water bodies, perched water, or water-bearing strata.

(11) A written statement from the qualified person preparing the report indicating whether any migration of leachate into the

vadose zone, surface water bodies, perched water, or water-bearing strata is likely or not likely to occur within five years, and any evidence supporting that statement.

SEC. 383. Section 25208.17 of the Health and Safety Code is amended to read:

25208.17. (a) Except as provided in subdivision (g), a person specified in subdivision (h) is exempt from filing the report required by Section 25208.7 if the surface impoundment has been closed, or will be closed before January 1, 1988, in accordance with Subchapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California ~~Administrative~~ Code *of Regulations*, and it has only been used for the discharge of economic poisons, as defined in Section 12753 of the Food and Agricultural Code, and if the person submits an application for exemption to the regional board on or before February 1, 1987, pursuant to subdivision (b) and an initial hydrogeological site assessment report to the regional board on or before July 1, 1987. A qualified person shall be responsible for the preparation of the hydrogeological site assessment report and shall certify its completeness and accuracy.

(b) A person seeking exemption from Section 25208.7 shall file an application for exemption with the regional board on or before February 1, 1987, together with an initial filing fee of three thousand dollars ($3,000). The application shall include the names of persons who own or operate each surface impoundment for which the exemption is sought and the location of each surface impoundment for which an exemption is sought.

(c) Notwithstanding Section 25208.3, each person filing an application for exemption pursuant to subdivision (b) shall pay only the application fee provided in subdivision (b) and any additional fees assessed by the state board to recover the actual costs incurred by the state board and regional boards to administer this section. The person is not liable for fees assessed pursuant to Section 25208.3, except that, if the person is required to comply with Section 25208.7 or 25208.6, the fees assessed under this section shall include the costs of the regional board and state board to administer those sections.

(d) If a person fails to pay the initial filing fee by February 1, 1987, or fails to pay any subsequent additional assessment pursuant to subdivision (c), the person shall be liable for a

penalty of not more than 100 percent of the fees due and unpaid, but in an amount sufficient to ~~defer~~ *deter* future noncompliance, as based upon that person's past history of noncompliance and ability to pay, and upon additional expenses incurred by the regional board and state board as a result of this noncompliance.

(e) Notwithstanding Section 25208.3, after the regional board has made a determination pursuant to subdivision (g), a final payment or refund of fees specified in subdivision (c) shall be made so that the total fees paid by the person shall be sufficient to cover the actual costs of the state board and the regional board in administering this section.

(f) The hydrogeological site assessment report shall contain, for each surface impoundment, all of the following information:

(1) A description of the surface impoundment, including its physical characteristics, its age, the presence or absence of a liner, a description of the liner, the liner's compatibility with the hazardous wastes discharged to the impoundment, and the design specifications of the impoundment.

(2) A description of the volume and concentration of hazardous waste constituents placed in the surface impoundment, based on a representative chemical analysis of the specific hazardous waste type and accounting for variance in hazardous waste constituents over time.

(3) An analysis of surface and groundwater on, under, and within one mile of the surface impoundment to provide a reliable indication of whether or not hazardous constituents or leachate is leaking or has been released from the surface impoundment.

(4) A chemical characterization of soil-pore liquid in areas ~~which~~ *that* are likely to be affected by hazardous constituents or leachate released from the surface impoundment, as compared to geologically similar areas near the surface impoundment that have not been affected by releases from the surface impoundment. This characterization shall include *both of the following*:

(A) A description of the composition of the vadose zone beneath the surface impoundment. This description shall include a chemical and hydrogeological characterization of both the consolidated and unconsolidated geologic materials underlying the surface impoundment, and an analysis for pollutants, including those constituents discharged into the surface

impoundment. This description shall also include soil moisture readings from a representative number of points around the surface impoundment's perimeter and at the maximum depth of the surface impoundment. If the regional board determines that the use of suction type soil sampling devices ~~are~~ *is* infeasible due to climate, soil hydraulics, or soil texture, the regional board may authorize the use of alternative devices. The initial report shall contain all data in tabular form so that data, constituents, and concentrations are readily discernible.

(B) A determination of the chemical characteristics of the soil made by collecting a soil sample upgradient from the impoundment or from an area that has not been affected by seepage from the surface impoundment and that is in a hydrogeologic environment similar to the surface impoundment. The determinations shall be analyzed for the same pollutants analyzed pursuant to subparagraph (A).

(5) A description of current groundwater and vadose zone monitoring being conducted at the surface impoundment for leak detection, including detailed plans and equipment specifications and a technical report that provides the rationale for the spatial distribution of groundwater and vadose zone monitoring points for the design of monitoring facilities, and for the selection of monitoring equipment. This description shall include:

(A) A map showing the location of monitoring facilities with respect to each surface impoundment.

(B) Drawings and design data showing construction details of groundwater monitoring facilities, including all of the following:

(i) Casing and hole diameter.

(ii) Casing materials.

(iii) Depth of each monitoring well.

(iv) Size and position of perforations.

(v) Method for joining sections of casing.

(vi) Nature and gradation of filter material.

(vii) Depth and composition of annular seals.

(viii) Method and length of time of development.

(ix) Method of drilling.

(C) Specifications, drawings, and data for the location and installation of vadose zone monitoring equipment.

(D) Discussion of sampling frequency and methods and analytical protocols used.

(E) Justification of indicator parameters used.

(6) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage before the hazardous waste constituents enter the waters of the state. This documentation shall include, but is not limited to, substantiation of each of the following:

(A) The monitoring facilities are located close enough to the surface impoundment to identify lateral and vertical migration of any constituents discharged to the impoundment.

(B) The groundwater monitoring wells are not located within the influence of any adjacent pumping water wells that might impair their effectiveness.

(C) The groundwater monitoring wells are screened only in the zone of groundwater to be monitored.

(D) The casing material in the groundwater monitoring wells does not interfere with, or react to, the potential contaminants of major concern at the impoundment.

(E) The casing diameter allows an adequate amount of water to be removed during sampling and allows full development of each well.

(F) The annular seal of each groundwater monitoring well prevents pollutants from migrating down the well.

(G) The water samples are collected after at least five well volumes have been removed from the well and that the samples are collected, preserved, transported, handled, analyzed, and reported in accordance with guidelines for collection and analysis of groundwater samples that provide for preservation of unstable indicator parameters and prevent physical or chemical changes that could interfere with detection of indicator parameters. If the wells are low-yield wells, in that the wells are incapable of yielding three well volumes during a 24-hour period, the methods of water sample collection shall ~~insure~~ *ensure* that a representative sample is obtained from the well.

(H) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition of hazardous wastes previously placed in the surface impoundment.

(I) The frequency of monitoring is sufficient to give timely warning of any leakage or release of hazardous constituents or

leachate so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.

(7) A written statement from the qualified person preparing the report indicating whether any hazardous constituents or leachate has migrated into the vadose zone, water-bearing strata, or waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(8) A written statement from the qualified person preparing the report indicating whether any migration of hazardous constituents or leachate into the vadose zone, water-bearing strata, or waters of the state is likely or not likely to occur within five years, and any evidence supporting that statement.

(g) The regional board shall complete a thorough analysis of each hydrogeological site assessment report submitted pursuant to subdivision (b) within one year after submittal. If the regional board~~,~~ determines that a hazardous waste constituent from the surface impoundment is polluting or threatening to pollute, as defined in subdivision (*l*) of Section 13050 of the Water Code, both of the following shall occur:

(1) The regional board shall issue a cease and desist order or a cleanup and abatement order that prohibits any discharge into the surface impoundment and ~~that~~ requires compliance with Section 25208.6.

(2) The person shall file a report pursuant to Section 25208.7 within nine months after the regional board makes the determination pursuant to subdivision (g). In making any determination under this subdivision, the regional board shall state the factual basis for the determinations.

(h) For purposes of this section, ~~person~~ *"person"* means only the following:

(1) Pest control operators and businesses licensed pursuant to Section 11701 of the Food and Agricultural Code.

(2) Local governmental vector control agencies who have entered into a cooperative agreement with the department pursuant to Section 116180.

SEC. 384. Section 25215.4 of the Health and Safety Code is amended to read:

25215.4. The department shall, within 30 days after ~~the effective date of the act enacting this section~~ *June 27, 1988*, notify all manufacturers of lead acid batteries sold by dealers to

consumers in this state of the requirements set forth in ~~Section~~ *Sections* 25215.2, 25215.3, and 25215.5.

SEC. 385. Section 25283.1 of the Health and Safety Code is amended to read:

25283.1. This chapter does not prohibit any county from entering into a joint powers agreement with other counties for the purposes of enforcing this chapter.

SEC. 386. Section 25370 of the Health and Safety Code is amended to read:

25370. "Board," as used in this article, means the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 387. Section 33080.7 of the Health and Safety Code is amended to read:

33080.7. For ~~puposes~~ *purposes* of compliance with subdivision (c) of Section 33080.1 and in addition to the requirements of Section 33080.4, the description of the agency's activities shall identify the amount of excess surplus, as defined in Section 33334.10, which has accumulated in the agency's Low and Moderate Income Housing Fund. Of the total excess surplus, the description shall also identify the amount that has accrued to the Low and Moderate Income Housing Fund during each fiscal year. This component of the annual report shall also include any plan required to be reported by subdivision (c) of Section 33334.10.

SEC. 388. Section 33320.4 of the Health and Safety Code is amended to read:

33320.4. (a) The unblighted territory ~~which~~ *that* is described in paragraphs (1) and (2) is contiguous to an existing redevelopment project area within the City of Sanger, California. If all of that unblighted ~~territroy~~ *territory* is annexed to the City of Sanger, the planning agency within the City of Sanger may, with the approval of the redevelopment agency, include that territory in a proposed project area, or the redevelopment agency may amend the redevelopment plan to include that territory within an existing contiguous project area, if the planning agency or the redevelopment agency, as the case may be, determines that the inclusion of that territory is necessary for effective redevelopment of the project area. If either, or both, of those determinations are made, the territory shall be conclusively

presumed necessary for effective redevelopment within the proposed or existing project area. Any actions taken by the planning agency or redevelopment agency in accordance with this section shall comply with all of the other requirements of this part.

(1) All that portion of Fresno County, California, within the City of Sanger in Sections 26 and 25, Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Beginning at the southwest corner of the northwest quarter of Section 26; thence along the existing city limits line of Sanger as follows, N. 89 47´ E., a distance of 2638.53 feet to the southeast corner of the northwest quarter of Section 26; thence N. 0 03´ W., along the west line of the northeast quarter of that Section, a distance of 345.52 feet to the northerly right-of-way line of the Garfield Ditch; thence northeasterly along northerly right-of-way line, a distance of 913.00 feet, a little more or less, to a point on the westerly right-of-way line of the Centerville and Kingsburg Canal; thence along the easterly right-of-way line of the Centerville and Kingsburg Canal as follows: N. 09 52´28″ E., 708.50 feet; N. 09 26´ 40″ E., 297.07 feet; N. 07 14´16″ E., 549.23 feet; and N. 09 15´10″ E., a distance of 539.47 feet to a point on a line 30. 00 feet south of the north line of the northeast quarter of Section 26; thence leaving the westerly right-of-way line, N.89 43´ E., along that line 30.00 feet south of and parallel with the north line of the northeast quarter of Section 26 and the easterly prolongation thereof, a distance of 1860.41 feet; thence S. 0 14´ E., 1151.07 feet; thence S. 73 01´ W., 357.58 feet; thence S. 55 46´ W., 985.00 feet; thence S. 40 46´ W., 218.00 feet; thence S. 24 31´ W., 364. 00 feet; thence N. 75 44´ W., 312.87 feet to a point on the west line of the southeast quarter of the northeast quarter of Section 26; thence S. 0 17´12″ E., along said west line, 413.31 feet to the southwest corner thereof; thence S. 0 16´28″ E., along the west line of the northeast quarter of the southeast quarter of Section 26, 1332.38 feet to the southwest corner thereof; thence leaving the existing city limits line of Sanger, N. 89 06´46″ W., along the north line of the south half of the southeast quarter of Section 26, 592.10 feet to the northeast corner of that parcel of land conveyed to Archie Mekealian and

Verlene Mekealian by deed dated February 23, 1944, and recorded in Book 2157 at Page 119, Fresno County records, with the corner being 742.00 feet east of the northwest corner of the south half of the southeast quarter of Secton 26; thence S. 4 36´52″ W., along the east line to the parcel, 1330.31 feet to the southeast corner thereof and to a point on the south line of the southeast quarter of Section 26; thence N. 88 44´19″ W., along the south line, 619.00 feet, more or less to the southwest corner of the southeast quarter of Section 26; thence S. 89 51´20″ W., along the south line of the southwest quarter of Section 26, 2639.90 feet to the southwest corner thereof; thence north, along the west line of the southwest quarter of Section 26, 2643.60 feet to the northwest corner thereof and the point of beginning. This territory contains a little more or less than 316.58 acres.

(2) All that portion of Fresno County, California, within the City of Sanger, in the northeast quarter of Section 15 in Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Commencing at the northeast corner of the northeast quarter of the northeast quarter of Section 15, thence southerly along the east line of the northeast quarter of Section 15 992.05 feet to the existing city limits line of Sanger, then continuing south along the east line of the northeast quarter of Section 15 475.01 feet, that being contiguous with the existing city limit of Sanger, for a total of 1467.06 feet, thence westerly, along a line 1180.15 feet 15, 880.90 feet, more or less to the easterly right-of-way line of the Southern Pacific Railroad Company’s right-of-way; thence leaving the existing city limits line of Sanger, northwesterly, along the easterly right-of-way line of the railroad as the same is shown on the Map of Mountain View Addition to Sanger, recorded February 18, 1891, in Book 4 of Plats, Page 66, Fresno County Records, to the point of intersection with the north line of the northeast quarter of Section 15; thence easterly along the north line, 2191.00 feet to the point of commencement. This territory contains a little more or less than 50.13 acres.

(b) The conclusive presumption that the unblighted territory described in subdivision (a) is necessary for effective redevelopment applies only to territory within the City of Sanger.

SEC. 389. Section 33333.6 of the Health and Safety Code is amended to read:

33333.6. The limitations of this section shall apply to every redevelopment plan adopted on or before December 31, 1993.

(a) The effectiveness of every redevelopment plan to which this section applies shall terminate at a date that shall not exceed 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with Section 33333.8 and to enforce existing covenants, contracts, or other obligations.

(b) Except as provided in subdivisions (f) and (g), a redevelopment agency may not pay indebtedness or receive property taxes pursuant to Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision ~~(b)~~ *(a)*.

(c) (1) If plans that had different dates of adoption were merged on or before December 31, 1993, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan. If an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by this section shall commence, with respect to the redevelopment plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment.

(2) If plans that had different dates of adoption are merged on or after January 1, 1994, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan.

(d) (1) Unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time

limit established by this section or to establish time limits that do not exceed the provisions of subdivision (b) or (c).

(2) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(e) (1) If a redevelopment plan adopted prior to January 1, 1994, contains one or more limitations required by this section, and the limitation does not exceed the applicable time limit required by this section, this section shall not be construed to require an amendment of this limitation.

(2) (A) A redevelopment plan adopted prior to January 1, 1994, that has a limitation shorter than the terms provided in this section may be amended by a legislative body by adoption of an ordinance on or after January 1, 1999, but on or before December 31, 1999, to extend the limitation, provided that the plan as so amended does not exceed the terms provided in this section. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.

(B) On or after January 1, 2002, a redevelopment plan may be amended by a legislative body by adoption of an ordinance to eliminate the time limit on the establishment of loans, advances, and indebtedness required by this section prior to January 1, 2002. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, except that the agency shall make the payment to affected taxing entities required by Section 33607.7.

(C) When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to

subdivisions (a) and (b) by one year by adoption of an ordinance. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6 ~~or~~, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, including, but not limited to, the requirement to make the payment to affected taxing entities required by Section 33607.7.

(D) When an agency is required pursuant to Section 33681.12 to make a payment to the county auditor for deposit in the county's Educational Revenue Augmentation Fund created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to subdivisions (a) and (b) by the following:

(i) One year for each year in which a payment is made, if the time limit for the effectiveness of the redevelopment plan established pursuant to subdivision (a) is 10 years or less from the last day of the fiscal year in which a payment is made.

(ii) One year for each year in which ~~such~~ a payment is made, if both of the following apply:

(I) The time limit for the effectiveness of the redevelopment plan established pursuant to subdivision (a) is more than 10 years but less than 20 years from the last day of the fiscal year in which a payment is made.

(II) The legislative body determines in the ordinance adopting the amendment that, with respect to the project, the ~~following:~~

~~(IIa) The~~ agency is in compliance with ~~the requirements of~~ Section 33334.2 or 33334.6, as applicable~~.~~

~~(IIb) The agency~~, has adopted an implementation plan in accordance with the requirements of Section 33490~~.~~

~~(IIc) The agency~~, is in compliance with subdivisions (a) and (b) of Section 33413, to the extent applicable~~.~~

(~~IId) The agency~~, *and* is not subject to sanctions pursuant to subdivision (e) of Section 33334.12 for failure to expend, encumber, or disburse an excess surplus.

(iii) This subparagraph shall not apply to any redevelopment plan if the time limit for the effectiveness of the redevelopment plan established pursuant to subdivision (a) is more than 20 years

after the last day of the fiscal year in which ~~such~~ a payment is made.

(3) (A) The legislative body by ordinance may adopt the amendments provided for under this paragraph following a public hearing. Notice of the public hearing shall be mailed to the governing body of each affected taxing entity at least 30 days prior to the public hearing and published in a newspaper of general circulation in the community at least once, not less than 10 days prior to the date of the public hearing. The ordinance shall contain a finding of the legislative body that funds used to make a payment to the county's Educational Revenue Augmentation Fund pursuant to Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the redevelopment plan. In adopting an ordinance pursuant to this paragraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.

(B) The time limit on the establishment of loans, advances, and indebtedness shall be deemed suspended and of no force or effect but only for the purpose of issuing bonds or other indebtedness the proceeds of which are used to make the payments required by Section 33681.12 if the following apply:

(i) The time limit on the establishment of loans, advances, and indebtedness required by this section prior to January 1, 2002, has expired and has not been eliminated pursuant to subparagraph (B).

(ii) The agency is required to make a payment pursuant to Section 33681.12.

(iii) The agency determines that in order to make the payment required by Section 33681.12, it is necessary to issue bonds or incur other indebtedness.

(iv) The proceeds of the bonds issued or indebtedness incurred are used solely for the purpose of making the payments required by Section 33681.12 and related costs.

The suspension of the time limit on the establishment of loans, advances, and indebtedness pursuant to this subparagraph shall not require the agency to make the payment to affected taxing entities required by Section 33607.7.

(4) (A) A time limit on the establishing of loans, advances, and indebtedness to be paid with the proceeds of property taxes received pursuant to Section 33670 to finance in whole or in part the redevelopment project shall not prevent an agency from incurring debt to be paid from the agency's Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's affordable housing obligations, as defined in paragraph (1) of subdivision (a) of Section 33333.8.

(B) A redevelopment plan may be amended by a legislative body to provide that there shall be no time limit on the establishment of loans, advances, and indebtedness paid from the agency's Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's affordable housing obligations, as defined in paragraph (1) of subdivision (a) of Section 33333.8. In adopting ~~such~~ an ordinance *pursuant to this subparagraph*, neither the legislative body nor the agency is required to comply with Section 33345.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, and the agency shall not make the payment to affected taxing entities required by Section 33607.7.

(f) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit the allocation of taxes to an agency to the extent required to comply with Section 33333.8. In the event of a conflict between these limitations and the obligations under Section 33333.8, the limitations established in the ordinance shall be suspended pursuant to Section 33333.8.

(g) (1)This section does not effect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement entered into pursuant to Section 33401, authorized by the legislative body, or the agency pursuant to this part, prior to January 1, 1994.

(2) This section does not affect the right of an agency to receive property taxes, pursuant to Section 33670, to pay the bond, indebtedness, or other obligation.

(3) This section does not affect the right of an agency to receive property taxes pursuant to Section 33670 to pay refunding bonds issued to refinance, refund, or restructure indebtedness authorized prior to January 1, 1994, if the last

maturity date of these refunding bonds is not later than the last maturity date of the refunded indebtedness and the sum of the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds is less than the sum of the total net interest cost to maturity on the refunded indebtedness plus the principal amount of the refunded indebtedness.

(h) A redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670, with respect to a redevelopment plan adopted prior to January 1, 1994, after the date identified in subdivision (b) or the date identified in the redevelopment plan, whichever is earlier, except as provided in paragraph (2) of subdivision (e), in subdivision (g), or in Section 33333.8.

(i) The Legislature finds and declares that the amendments made to this section by ~~the act that adds this subdivision~~ *Chapter 942 of the Statutes of 1993* are intended to add limitations to the law on and after January 1, 1994, and are not intended to change or express legislative intent with respect to the law prior to that date. It is not the intent of the Legislature to affect the merits of any litigation regarding the ability of a redevelopment agency to sell bonds for a term that exceeds the limit of a redevelopment plan pursuant to law that existed prior to January 1, 1994.

(j) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by Section 33333.2.

SEC. 390. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined by Section 50106, that is occupied by these persons and families, unless one of the following findings is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(2) (A) That some stated percentage less than 20 percent of the taxes that are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community, including its share of the regional housing needs of persons and families of low- or moderate-income and very low income households, and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that a percentage of less than 20 percent will be sufficient to meet the community's need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is

consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(C) For purposes of making the findings specified in this paragraph and paragraph (1), the housing element of the general plan of a city, county, or city and county shall be current, and shall have been determined by the department pursuant to Section 65585 to be in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) (A) That the community is making a substantial effort to meet its existing and projected housing needs, including its share of the regional housing needs, with respect to persons and families of low and moderate income, particularly very low income households, as identified in the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort, consisting of direct financial contributions of local funds used to increase and improve the supply of housing affordable to, and occupied by, persons and families of low or moderate income and very low income households is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. In addition to any other local funds, these direct financial contributions may include federal or state grants paid directly to a community and ~~which~~ *that* the community has the discretion of using for the purposes for which moneys in the Low and Moderate Income Housing Fund may be used. The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan. No finding under this subdivision may be made until the community has provided or ensured the

availability of replacement dwelling units as defined in Section 33411.2 and until it has complied with Article 9 (commencing with Section 33410).

(B) In making the determination that other financial contributions are equivalent in impact pursuant to this subdivision, the agency shall include only those financial contributions that are directly related to programs or activities authorized under subdivision (e).

(C) The authority for making the finding specified in this paragraph shall expire on June 30, 1993, except that the expiration shall not be deemed to impair contractual obligations to bondholders or private entities incurred prior to May 1, 1991, and made in reliance on the provisions of this paragraph. Agencies that make this finding after June 30, 1993, shall show evidence that the agency entered into the specific contractual obligation with the specific intention of making a finding under this paragraph in order to provide sufficient revenues to pay off the indebtedness.

(b) Within 10 days following the making of a finding under either paragraph (1) or (2) of subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding and other factual information in the housing element that demonstrates that either (1) the community does not need to increase, improve, or preserve the supply of housing for low- and moderate-income households, including very low income households, or (2) a percentage less than 20 percent will be sufficient to meet the community's need to improve, increase, and preserve the supply of housing for low- and moderate-income households, including very low income households. Within 10 days following the making of a finding under paragraph (3) of subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding that the community is making a substantial effort to meet its existing and projected housing needs. Agencies that make this finding after June 30, 1993, shall also submit evidence to the department of its contractual obligations with bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this finding.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency. If an agency is determined by a court to have knowingly misrepresented any material facts regarding the community's share of its regional housing need for low- and moderate-income housing, including very low income households, or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable for all court costs and plaintiff's attorney's fees, and shall be required to allocate not less than 25 percent of the agency's tax increment revenues to its Low and Moderate Income Housing Fund in each year thereafter.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low- and moderate-income persons or families, including the following:

(1) Acquire real property or building sites subject to Section 33334.16.

(2) *(A)* Improve real property or building sites with onsite or offsite improvements, but only if both ~~(A)~~ *(i)* the improvements are part of the new construction or rehabilitation of affordable housing units for low- or moderate-income persons that are directly benefited by the improvements, and are a reasonable and fundamental component of the housing units, and ~~(B)~~ *(ii)* the agency requires that the units remain available at affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate income for the same time period and in the same manner as provided in subdivision (c) and paragraph (2) of subdivision (f) of Section 33334.3.

(B) If the newly constructed or rehabilitated housing units are part of a larger project and the agency improves or pays for onsite or offsite improvements pursuant to the authority in this

subdivision, the agency shall pay only a portion of the total cost of the onsite or offsite improvement. The maximum percentage of the total cost of the improvement paid for by the agency shall be determined by dividing the number of housing units that are affordable to low- or moderate-income persons by the total number of housing units, if the project is a housing project, or by dividing the cost of the affordable housing units by the total cost of the project, if the project is not a housing project.

(3) Donate real property to private or public persons or entities.

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, extremely low income households, as defined by Section 50106, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies.

(9) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(10) Maintain the community's supply of mobilehomes.

(11) Preserve the availability to lower income households of affordable housing units in housing developments that are assisted or subsidized by public entities and that are threatened with imminent conversion to market rates.

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

(g) (1) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that the use will be of benefit to the project. The determination by the agency and the legislative body shall be

final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds, before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

(2) (A) The Contra Costa County Redevelopment Agency may use these funds anywhere within the unincorporated territory, or within the incorporated limits of the City of Walnut Creek on sites contiguous to the Pleasant Hill BART Station Area Redevelopment Project area. The agency may only use these funds outside the project area upon a resolution of the agency and board of supervisors determining that the use will be of benefit to the project area. In addition, the agency may use these funds within the incorporated limits of the City of Walnut Creek only if the agency and the board of supervisors find all of the following:

(i) Both the County of Contra Costa and the City of Walnut Creek have adopted and are implementing complete and current housing elements of their general plans that the Department of Housing and Community Development has determined to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(ii) The development to be funded shall not result in any residential displacement from the site where the development is to be built.

(iii) The development to be funded shall not be constructed in an area that currently has more than 50 percent of its population comprised of racial minorities or low-income families.

(iv) The development to be funded shall allow construction of affordable housing closer to a rapid transit station than could be constructed in the unincorporated territory outside the Pleasant Hill BART Station Area Redevelopment Project.

(B) If the agency uses these funds within the incorporated limits of the City of Walnut Creek, all of the following requirements shall apply:

(i) The funds shall be used only for the acquisition of land for, and the design and construction of, the development of housing containing units affordable to, and occupied by, low- and moderate-income persons.

(ii) If less than all the units in the development are affordable to, and occupied by, low- or moderate-income persons, any agency assistance shall not exceed the amount needed to make the housing affordable to, and occupied by, low- or moderate-income persons.

(iii) The units in the development that are affordable to, and occupied by, low- or moderate-income persons shall remain affordable for a period of at least 55 years.

(iv) The agency and the City of Walnut Creek shall determine, if applicable, whether Article XXXIV of the California Constitution permits the development.

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(i) ~~The requirements of this~~ *This* section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after January 1, 1977, or for any area that is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

(j) (1) (A) An action to compel compliance with the requirement of Section 33334.3 to deposit not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 in ~~a~~ *the* Low and Moderate Income Housing Fund shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the last day of the fiscal year in which the funds were required to be deposited in the Low and Moderate Income Housing Fund.

(B) An action to compel compliance with the requirement of this section or Section 33334.6 that money deposited in the Low and Moderate Income Housing Fund be used by the agency for purposes of increasing, improving, and preserving the

community's supply of low- and moderate-income housing available at affordable housing cost shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the date of the actual expenditure of the funds.

(C) An agency found to have deposited less into the Low and Moderate Income Housing Fund than mandated by Section 33334.3 or to have spent money from the Low and Moderate Income Housing Fund for purposes other than increasing, improving, and preserving the community's supply of low- and moderate-income housing, as mandated, by this section or Section 33334.6 shall repay the funds with interest in one lump sum pursuant to Section 970.4 or 970.5 of the Government Code or may do either of the following:

(i) Petition the court under Section 970.6 for repayment in installments.

(ii) Repay the portion of the judgment due to the Low and Moderate Income Housing Fund in equal installments over a period of five years following the judgment.

(2) Repayment shall not be made from the funds required to be set aside or used for low- and moderate-income housing pursuant to this section.

(3) Notwithstanding clauses (i) and (ii) of subparagraph (C) of paragraph (1), all costs, including reasonable ~~attorney~~ *attorney's* fees if included in the judgment, are due and shall be paid upon entry of judgment or order.

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 of the Government Code for the enforcement of a judgment against a local public entity applies to a judgment against a local public entity that violates this section.

(5) This subdivision applies to actions filed on and after January 1, 2006.

(6) The limitations period specified in subparagraphs (A) and (B) of paragraph (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 391. Section 33334.22 of the Health and Safety Code is amended to read:

33334.22. (a) The Legislature finds and declares that in order to avoid serious economic hardships and accompanying blight, it

is necessary to enact this section for the purpose of providing housing assistance to very low, lower, and moderate-income households. This section applies to any redevelopment agency located within Santa Cruz County, the Contra Costa County Redevelopment Agency, and the Monterey County Redevelopment Agency.

(b) Notwithstanding Section 50052.5, any redevelopment agency to which this section applies may make assistance available from its low- and moderate-income housing fund directly to a home buyer for the purchase of an owner-occupied home, and for purposes of that assistance and this section, "affordable housing cost" shall not exceed the following:

(1) For very low income households, the product of 40 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 40 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that the affordable housing cost not exceed 40 percent of the gross income of the household.

(3) For moderate income households, affordable housing cost shall not exceed the product of 40 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 40 percent of the gross income of the household.

(c) Any agency that provides assistance pursuant to this section shall include in the annual report to the Controller, pursuant to Sections 33080 and 33080.1, all of the following information:

(1) The ~~sales~~ *sale* prices of homes purchased with assistance from the agency's Low and Moderate Income Housing Fund for each year from 2000 to 2007, inclusive, for agencies in Santa

Cruz County and for 2006 and 2007 for the Contra Costa County Redevelopment Agency and the Monterey County Redevelopment Agency.

(2) The ~~sales~~ *sale* prices of homes purchased and rehabilitated with assistance from the agency's Low and Moderate Income Housing Fund for each year from 2000 to 2007, inclusive, for agencies in Santa Cruz County and for 2006 and 2007 for the Contra Costa County Redevelopment Agency and the Monterey County Redevelopment Agency.

(3) The incomes, and percentage of income paid for housing costs, of all households that purchased, and that purchased and rehabilitated, homes with assistance from the agency's Low and Moderate Income Housing Fund for each year from 2000 to 2007, inclusive, for agencies in Santa Cruz County and for 2006 and 2007 for the Contra Costa County Redevelopment Agency and the Monterey County Redevelopment Agency.

(d) Except as provided in subdivision (b), all provisions of Section 50052.5, including any definitions, requirements, standards, and regulations adopted to implement those provisions, shall apply to this section.

(e) By April 1, 2007, the Controller shall furnish a compilation of the information described in subdivision (c) to the Legislature and the director.

(f) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 392. Section 33446 of the Health and Safety Code is amended to read:

33446. The governing board of any school district may enter into an agreement with an agency under which the agency shall construct, or cause to be constructed, a building or buildings to be used by the district upon a designated site within a project area and, pursuant to ~~such~~ *the* agreement, the district may lease ~~such~~ *the* buildings and site. ~~Such~~ *The* agreement shall provide that the title to ~~such~~ *the* building or buildings and site shall vest in the district at the expiration of ~~such~~ *the* lease, and may provide the means or method by which the title to the building or buildings and the site shall vest in the district prior to the expiration of ~~such~~ *the* lease, and shall contain ~~such~~ other terms

and conditions ~~as~~ *that* the governing board of the district deems to be in the best interest of the district. ~~Such~~ *The* agreements and leases may be entered into by the governing board of any school district without regard to bidding, election, or any other requirement of Article ~~9~~ *2* (commencing with Section ~~15701)~~ *17400)* of Chapter ~~2 of Division 11~~ *4* of Part ~~3~~ *10.5* of the Education Code.

SEC. 393. Section 33476 of the Health and Safety Code is amended to read:

33476. Notwithstanding any other provision ~~in~~ *of* this article, except ~~the provisions of~~ Section 33471.5, for the purpose of allocating taxes pursuant to Section 33670 ~~which~~ *that* are subject to ~~the provisions of~~ this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of San Bernardino designated Meadowbrook/Central City, Central City East, and Central City South, are hereby merged into one contiguous project areas designated Central City. Each ~~constitutent~~ *constituent* project area so merged~~,~~ shall continue under its own redevelopment plan for the longest term of the three plans, but, except as otherwise provided in this article, taxes attributable to each project area merged pursuant to this section ~~which~~ *that* are allocated to the redevelopment agency pursuant to Section 33670 shall be allocated, as provided in subdivision (b) of ~~such~~ *that* section, to the entire merged project area for the purpose of paying the principal of and interest on loans, moneys advanced to, or indebtedness ~~(whether~~, *whether* funded, refunded, assumed, or ~~otherwise)~~ *otherwise,* incurred by the redevelopment agency to finance or refinance, in whole or in part, ~~such~~ *the* merged redevelopment project.

SEC. 394. Section 33492.78 of the Health and Safety Code is amended to read:

33492.78. (a) ~~The provisions of~~ Section 33607.5 shall not apply to an agency created pursuant to this article. For purposes of Sections 42238, 84750, and 84751 of the Education Code, funds allocated pursuant to this section shall be treated as if they were allocated pursuant to Section 33607.5.

(1) ~~The provisions of this~~ *This* section shall apply to each redevelopment project area created pursuant to a redevelopment plan ~~which~~ *that* contains the provisions required by Section 33670 and is created pursuant to this article. All the amounts

calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted from the total amount of tax-increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the school district or districts and community college district or districts receive pursuant to subdivision (a) of Section 33670. The agency shall reduce its payments pursuant to this section to an affected school or community college district by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, or 33446, or any provision of law other than this section for, or in connection with, a public facility owned or leased by that affected school or community college district.

(3) (A) Of the total amount paid each year pursuant to this section to school districts, 43.9 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.1 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(B) Of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84750 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(C) Of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(D) Of the total amount paid each year pursuant to this section to special education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 81 percent shall

not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(4) Local education agencies that use funds received pursuant to this section for educational facilities shall spend these funds at schools that are any one of the following:

(A) Within the project area.

(B) Attended by students from the project area.

(C) Attended by students generated by projects that are assisted directly by the redevelopment agency.

(D) Determined by a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments, and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district an amount equal to the product of 25 percent times the percentage share of total property taxes collected ~~which~~ *that* are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district, in addition to the amounts paid pursuant to subdivision (b), an amount equal to the product of 21 percent times the percentage share of total property taxes collected ~~which~~ *that* are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the first adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The first adjusted tax increments received by the agency shall be calculated by

applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected school and community college districts, in addition to the amounts paid pursuant to subdivisions (b) and (c), an amount equal to 14 percent times the percentage share of total property taxes collected ~~which~~ *that* are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the second adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The second adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

~~(g)~~

(e) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected school and community college districts may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected school and community college districts during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or

indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected school or community college districts, or to pay for public facilities that will be owned or leased to an affected school or community college district.

~~(h)~~

(f) As used in this section, a "local education agency" includes a school district, a community college district, or a county office of education.

SEC. 395. Section 33492.86 of the Health and Safety Code is amended to read:

33492.86. (a) This section shall apply to a redevelopment project area the territory of which includes March Air Force Base, that is adopted pursuant to a redevelopment plan that contains the provisions required by Section 33670, and that is adopted pursuant to this chapter. The redevelopment agency shall make the payments to affected school districts and community college districts required by subdivision (a) of Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9 instead of from the first fiscal year in which the agency receives tax-increment revenue.

(b) (1) Pursuant to Section 33492.3, the March Air Force Base Project Area adopted pursuant to this article may include all, or any portion of, property within the military base that the federal Base Closure and Realignment Commission has voted to realign when that action has been sustained by the President and the Congress of the United States, regardless of the percentage of urbanized land, as defined in Section 33320.1, within the military base.

(2) (A) Pursuant to Section 33492.3, the March Air Force Base Project Area may include territory outside the military base. The project area shall be entirely contained within a one-mile perimeter of the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995. At no time shall the aggregate acreage of the project area outside the boundaries of March Air Force Base, as those boundaries exist on January 1,

1995, exceed 2 percent of the total acreage contained within that one-mile perimeter, and these areas may only be included in the project area upon a finding of benefit to the March Air Force Base Project Area and with the concurrence of the legislative bodies of the County of Riverside, the City of Moreno Valley, the City of Perris, and the City of Riverside.

(B) The agency for the March Air Force Base Project Area may, with the concurrence of the relevant legislative body pursuant to subparagraph (B), pay for all or a part of the value of land and the cost of the installation and construction of any structure or facility or other improvement that is publicly owned outside the jurisdiction of the agency, if the legislative body of the agency determines all of the following:

(i) That the structure, facility, or other improvement is of benefit to the project area.

(ii) That no other reasonable means of financing the facilities, structures, or improvements are available to the community.

(iii) That the payment of funds for the acquisition of land or the cost of facilities, structures, or other improvements will assist in the elimination of one or more blight conditions, as identified pursuant to Section 33492.83, inside the project area, or provide housing for low- or moderate-income persons.

(C) Concurrence of the relevant legislative body shall be demonstrated by the adoption of an ordinance by the community where the structure, facility, or other improvement is to be located ~~which~~ *that* authorizes the redevelopment of the area within its territorial limits by the redevelopment agency for the March Air Force Base Project Area.

(D) All projects authorized by this subdivision shall be within communities ~~which~~ *that* are contiguous to the March Air Force Base Project Area.

(c) Notwithstanding subdivision (a) of Section 33492.15 or any other provision of law, the March Joint Powers Redevelopment Agency shall not be obligated to make any payments required by subdivision (a) of Section ~~33942.15~~ *33492.15* to the County of Riverside, the County Free Library Fund, and the County Fire Fund. Instead, the March Joint Powers Redevelopment Agency shall be required to make those payments required under the Cooperative Agreement entered into among the County of Riverside, the March Joint Powers

Authority, and the March Joint Powers Redevelopment Agency dated August 20, 1996, as that agreement may be amended from time to time.

SEC. 396. Section 35816 of the Health and Safety Code is amended to read:

35816. *(a)* The secretary shall adopt regulations applicable to all persons who are in the business of originating residential mortgage loans in this state, including, but not limited to, insurers, mortgage bankers, investment bankers, and credit unions and who are not depository institutions within the meaning of subsection (2) of Section 2802 of Title 12 of the United States Code. The regulations for residential mortgage loans shall impose substantially the same reporting requirements by geographic area and loan product as are imposed by the federal Home Mortgage Disclosure Act of 1975, as amended (12 U.S.C. Sec. 2801 et seq.).

(b) This section does not apply to subsidiaries of depository institutions or subsidiaries of depository institution holding companies ~~which~~ *that* are currently reporting to a federal or state regulatory agency as provided by the Home Mortgage Disclosure Act of 1975, as amended (12 U.S.C. Sec. ~~2081~~ *2801* et seq.) or are subject to substantially the same reporting requirements by geographic area and loan product pursuant to an act of a federal or state regulatory agency.

SEC. 397. Section 38012 of the Health and Safety Code is amended to read:

38012. The Department of General Services shall review and approve contracts in accordance with ~~the provisions of~~ Article 4 ~~of Chapter 2~~ (commencing with Section ~~10290~~) *10335) of Chapter 2* of Part 2 of Division 2 of the Public Contract Code.

SEC. 398. Section 39941 of the Health and Safety Code is amended to read:

39941. The state board shall establish an advisory group to make recommendations to the state board regarding the design and implementation of the pilot program.

(a) The advisory group shall consist of an even number of members, not to exceed 14, as determined by the boards of the South Coast Air Quality Management District and the Sacramento Metropolitan Air Quality Management District.

(b) The advisory group shall consist of recognized experts in the field of remote sensing and locomotive engine technology, and representatives of citizen community groups, representatives of the South Coast Air Quality Management District, and representatives of the Sacramento Metropolitan Air Quality Management District. The advisory committee may also include representatives of the Union Pacific Railroad and the Burlington Northern Santa Fe Railway.

~~(2)~~

(c) The advisory group shall be appointed by the South Coast Air Quality Management District and the Sacramento Metropolitan Air Quality Management District. If the Union Pacific Railroad and Burlington Northern Santa Fe Railway choose to participate, 50 percent of the members of the advisory group shall be appointed by the Union Pacific Railroad and Burlington Northern Santa Fe Railway and 50 percent shall be appointed by the South Coast Air Quality Management District and the Sacramento Metropolitan Air Quality Management District.

SEC. 399. Section 40440.2 of the Health and Safety Code is amended to read:

40440.2. ~~(a)~~ In addition to, and notwithstanding the requirements of, Section 39616, all of the following shall be implemented as part of the south coast district's market-based incentive program, the Regional Clean Air Incentives Market, also known as RECLAIM:

(a) (1) ~~(A)~~ On or before July 1, 1998, the south coast district staff shall provide to the south coast district board a progress report based on the annual audits specified in ~~paragraph (3)~~ *subdivision (c)*. The progress report shall meet all of the following requirements:

~~(i)~~

(A) The data in the report for the nitrogen oxides RECLAIM program shall be aggregated by three-digit SIC code and facility emission rate to the extent feasible. The categories of emission rates shall be under 4, 4 to 10, inclusive, 11 to 100, inclusive, and over 100 tons per year.

~~(ii)~~

(B) The data in the report for the sulfur oxides RECLAIM program shall be aggregated by three-digit SIC code only to the extent feasible.

~~(iii)~~

(C) In preparing the report, the south coast district shall publish in an appendix all final data and model outputs, except that it shall keep confidential any facility-specific information that is obtained by either the south coast district, or any independent contractor retained by the south coast district, in the course of preparing the report.

~~(iv)~~

(D) Any publication of the data obtained from facilities by the south coast district shall be in aggregate form only, as specified in this subdivision. The south coast district board shall make the raw data available to the public.

~~(B)~~

(2) The south coast district board shall receive public comment on the progress report.

~~(C)~~

(3) The south coast district shall not lower the emission threshold for mandatory participation in the RECLAIM program for nitrogen oxides and sulfur oxides from the threshold that was established on October 15, 1993, until the progress report is completed and a public hearing on the report has been held, unless the south coast district board finds, after a public hearing, that there will be no adverse environmental or economic effects resulting from a lowered emission threshold.

~~(2)~~

(b) On or before July 1, 1997, an advisory committee shall be selected by the south coast district board. The advisory committee shall serve for a maximum of one year, or until the report required by ~~paragraph (4)~~ *subdivision (d)* is made to the south coast district board, whichever is later. The advisory committee shall be composed of the following members:

~~(A)~~

(1) One representative from each of the following:

~~(i)~~

(A) A facility that participates in one or both of the market-based incentive programs and emits more than 100 tons of nitrogen oxides or sulfur oxides annually.

~~(ii)~~

(B) A facility that emits from 11 to 100 tons, inclusive, of nitrogen oxides or sulfur oxides annually.

~~(iii)~~

(C) A facility that emits less than 10 tons of nitrogen oxides or sulfur oxides annually.

~~(B)~~

(2) One representative from the south coast district staff, one representative from the state board, and one representative from the Environmental Protection Agency.

~~(C)~~

(3) One representative from a financial institution.

~~(D)~~

(4) One representative from an academic institution.

~~(E)~~

(5) One representative from a market commodities or securities trading institution.

~~(F)~~

(6) One representative from an economic analysis research institution.

~~(G)~~

(7) Two representatives from environmental organizations.

~~(H)~~

(8) One representative from each of the investor-owned energy utilities serving the south coast district, and one representative from a municipal energy utility representing the City of Los Angeles.

~~(I)~~

(9) One representative from a technical contractor specializing in installation and certification of emissions monitoring equipment.

~~(J)~~

(10) One representative from an oil company.

~~(K)~~

(11) One representative from the aerospace industry.

~~(3)~~

(c) In addition to any other information required by subdivision (e) of Section 39616, the south coast district shall annually perform a detailed assessment of the program audit

findings specified in paragraph (1) of subdivision (b) of south coast district Rule 2015, as adopted October 15, 1993.

~~(4)~~

(d) The advisory committee shall conduct a peer review of the progress report to the south coast district board required pursuant to ~~paragraph (1)~~ *subdivision (a)*. The advisory committee shall present its peer review conclusions to the south coast district board as an independent report concurrently with the staff progress report. The advisory committee may request staff support from the south coast district in conducting its peer review and preparing the report.

SEC. 400. Section 40717.6 of the Health and Safety Code is amended to read:

40717.6. (a) No district or other local or regional agency shall impose any requirement on any private entity, including any requirement in any congestion management program adopted pursuant to Section 65089 of the Government Code, except as specifically provided in Section 65089.1 of the Government Code, to reduce shopping trips or to require the imposition of parking charges or the elimination of existing parking spaces at retail facilities.

(b) Notwithstanding subdivision (a), nothing in this section shall be construed to prevent a city or county from doing any of the following:

(1) Requiring retailers to make available to customers information concerning alternative transportation systems serving the retail site.

(2) Imposing requirements on new development as a condition of development for the purpose of mitigation pursuant to the California Environmental Quality Act ~~Division~~ *(Division* 13 (commencing with Section 21000) of the Public Resources Code).

(3) Enacting requirements on retailers as a result of a voter imposed growth management initiative.

(c) Nothing in this section shall be construed as a limitation on the land use authority of cities and counties.

SEC. 401. Section 42840 of the Health and Safety Code is amended to read:

42840. (a) Participants shall utilize the ~~following~~ reporting procedures *described in this section* to establish a greenhouse gas

emissions baseline~~, participants~~. *Participants* shall report their certified emissions for the most recent year for which they have complete energy use and fuel consumption data as specified in this chapter. Participants that have complete energy use or fuel consumption data for earlier years that can be certified may establish their baseline as any year beginning on or after January 1, 1990. After establishing baseline emissions, participants shall report their certified emissions results in each subsequent year in order to show changes in emissions levels with respect to their baseline year. Participants may report annual emission results without establishing an emissions baseline. Participants shall also report using industry-specific metrics once the registry adopts an industry-specific metric for the industry in question.

(b) (1) Participants shall report direct emissions and indirect emissions separately. Direct emissions are those emissions from applicable sources that are under management control of a participating entity, including onsite combustion, fugitive noncombustion emissions, and vehicles owned and operated by the participant. Indirect emissions that are required to be reported by participants are those emissions embodied in net electricity and steam imports, including offsite steam generation and district heating and cooling. Participants are encouraged, but are not required, to report other indirect emissions based on guidance that is adopted by the registry.

(2) On or after January 1, 2004, the registry board, in coordination with the State Energy Resources Conservation and Development Commission, may revise the scope of indirect emission source types that are required to be reported by participants specified in paragraph (1) after a public workshop and review process conducted by the registry if all of the following requirements have been met.

(A) The State Energy Resources Conservation and Development Commission has approved that revision at a public hearing following a public workshop.

(B) Prior to approving that proposed revision, the commission determines all of the following:

(i) A reasonable and ~~generally-accepted~~ *generally accepted* methodology exists that will enable participants to accurately estimate and report the emissions for the indirect source type in question.

(ii) The proposed revision will not create an unreasonable reporting burden on the participants.

(iii) The proposed revision is necessary to achieve the purposes listed in Section 42810.

(C) The registry, at any time it acts to revise the scope of indirect emission source types that are required to be reported by participants, establishes a timeframe for the phasein of the revised scope so that participants shall have at least four months before the start of the next annual reporting cycle that incorporates the revised scope.

(3) In cases of joint ownership, emissions are reported by the managing entity, unless the owners decide to report emissions on a pro rata basis.

(4) Participants shall not be required to report emissions of any greenhouse gas that is de minimis in quantity, when summed up across all applicable sources of the participating entity. The State Energy Resources Conservation and Development Commission shall recommend to the registry a definition of de minimis emissions that reasonably accounts for differences in the size, activities, and sources of direct and indirect baseline emissions of participants, and is consistent with the goals and intent of subdivision (f) of Section 42801.

(c) (1) All participants shall report direct and indirect carbon dioxide (CO_2) emissions that are material to their operations.

(2) The registry shall also encourage participants to monitor and report emissions of the following gases:

(A) Hydrofluorocarbons (HFCs).

(B) Methane (CH_4).

(C) Nitrous Oxide (N_2O).

(D) Perfluorocarbons (PFCs).

(E) Sulfur hexafluoride (SF_6).

(3) The report of information specified in paragraph (2) is optional for three years after a participant joins the registry. After participating in the registry for a total of three years, participants shall report emissions required by both paragraphs (1) and (2).

(4) Emissions of all gases under this subdivision shall be reported in mass units.

(d) The basic unit of participation in the registry shall be an entity in its entirety such as a corporation or other legally constituted body, any city or county, and each state government

agency. The registry shall not record emissions baselines and reductions for individual facilities or projects, except to the extent they are included in an entity's emissions reporting.

(1) Corporations may report emissions baselines and annual emissions results from subsidiaries if the parent corporation is clearly defined.

(2) Participants shall report emissions results from all of their applicable sources in the state when they initially register.

(3) Participants may, and are encouraged to, at any time, register emissions from all applicable sources based in the United States, so long as this reporting meets all the other requirements established by this chapter. Those participants with emissions in other states that report California emissions only may not be able to receive equal consideration for their emissions records in future national or international regulatory regimes relating to greenhouse gas emissions. In addition, participants with operations outside of the United States are encouraged to register their total worldwide emissions baselines and annual emissions results. Within three years, the registry shall review and report to the Legislature with a recommendation on whether the registry should require, rather than encourage, participants to report all of their greenhouse gas emissions in the United States, not just California emissions.

(4) To ensure that reported emissions reflect actual emissions, participants that outsource production or services shall report emissions associated with the outsourced activity, and remove these emissions from their emissions baseline. The subcontracted entity, if it voluntarily chooses to participate in the registry shall report emissions associated with the outsourced activities it has taken over. Participants shall attest at least once each year that the entity has not outsourced any emissions, or that if it has, that all emissions associated with the outsourced activity have been reported and subtracted from the entity's baseline emissions.

(5) To prevent changes in vertical integration within corporations from leading to apparent emissions reductions when in fact no reductions have occurred, the registry shall treat mergers, acquisitions, and divestitures as follows:

(A) The emissions baselines of any merged or acquired entity shall be added together, and the registry shall treat the resulting entity as if it had been one corporation from the beginning.

(B) In divestitures, the emissions baselines of the affected corporations shall be split, with the effect that the registry shall treat them as if they had been separate corporations from the beginning. If the divested corporation is purchased by another firm, the registry shall treat that purchase as a merger with the purchasing corporation. If the divested corporation remains a separate entity after the divestiture, its registry baseline shall reflect the emissions associated with the entity's operations before the divestiture. Corporations that divest operations may allocate certified emissions results achieved prior to the divestiture among the divesting and the divested entities, and the registry shall adjust their baselines accordingly.

(C) Any adjustments for changes in vertical integration shall be verified in the annual emissions certifications required for recordation of emissions results.

(6) If a participant changes from statewide to national reporting under this program, changes to its baseline will be treated in a similar manner as changes in vertical integration as described in paragraph (5).

(7) To ensure that reported emissions accurately reflect shifts in operations to or from other states, the registry shall adopt, in consultation with the State Energy Resources Conservation and Development Commission, at a public meeting and following at least one public workshop, reporting procedures for participants that choose to report greenhouse emissions on a statewide basis that require participants to show both of the following:

(A) Changes in a participant's operations, such as a facility startup or shutdown, that result in a significant and long-term shift of greenhouse gas emissions from California to other states or from other states to California.

(B) The corresponding change in the participant's baseline.

SEC. 402. Section 43200.1 of the Health and Safety Code is amended to read:

43200.1. (a) The Legislature finds and declares that since 1998, the state board has imposed smog index label specifications on new passenger cars and light-duty trucks that are sold and registered in the state to inform consumers about emissions of air pollutants from the use of new vehicles.

(b) (1) (A) The state board, not later than July 1, 2007, shall revise the regulations adopted pursuant to Section 43200 to

rename the existing label required by those regulations, and to require the renamed label to include, for model year 2009 and subsequent model year motor vehicles, information on the emissions of global warming gases from motor vehicles for the same model year.

(B) This subdivision applies to, at a minimum, all passenger cars and light-duty trucks with a gross vehicle weight of 8,500 pounds or less, and to all motor vehicles subject to regulation pursuant to Section 43018.5.

(C) Emissions of global warming gases shall include emissions, as determined by the state board, from vehicle operation and upstream emissions.

(2) The label shall include all of the following:

(A) A smog index that contains quantitative information presented in a continuous, easy-to-read scale, unless the state board determines, after at least one public workshop, that an alternative graphical representation will more effectively convey the information to consumers, and that compares the emissions from the vehicle with the average projected emissions from all vehicles of the same model year sold in the state for which a label is required. For reference purposes, the index shall also identify the emissions from the vehicle model of that same model year that has the lowest smog-forming emissions.

(B) A global warming index that contains quantitative information presented in a continuous, easy-to-read scale, unless the state board determines, after at least one public workshop, that an alternative graphical representation will more effectively convey the information to consumers, and that compares the emissions of global warming gases from the vehicle with the average projected emissions of global warming gases from all vehicles of the same model year sold in the state for which a label is required. For reference purposes, the index shall also identify the emissions of global warming gases from the vehicle model of that same model year that has the lowest emissions of global warming gases.

(C) A brief explanation, prepared by the state board, of the indices required by this section, including the identification of motor vehicle usage as a primary cause of global warming, and how emissions of those gases from motor vehicles may be reduced.

(D) The use of at least one color ink, as determined by the state board, in addition to black.

(c) In order to ensure that the label is useful and informative to consumers, the state board, shall, to the extent feasible within its existing resources, do both of the following in designing the label:

(1) Seek input from automotive consumers, graphic design professionals, and persons with expertise in environmental labeling.

(2) Consider other relevant label formats consistent with paragraph (2) of subdivision (b).

(d) The indices included in the label pursuant to paragraph (2) of subdivision (b) shall be updated as determined necessary by the state board to ensure that the differences in emissions among vehicles are readily apparent to the consumer.

(e) The state board, in consultation with other agencies as appropriate, may recommend to the Legislature additional sources of air pollution that emit significant amounts of global warming gases for which the disclosure of information regarding those emissions would be an effective means of educating the public about the sources of global warming and its impacts.

(f) The state board shall, as it determines appropriate and to the extent feasible within its existing resources, incorporate information from the label into existing programs designed to educate motor vehicle consumers about emissions of global warming gases and other air pollutants.

(g) The state board may accept donations or grants of funds from any person for the purposes of the program established pursuant to this section, and shall deposit amounts received from donations or grants into the Air Pollution Control Fund. The source of any funds received pursuant to this section shall be disclosed at all public hearings and workshops to implement this section. Donations, grants, or other commitments of money to the fund may be dedicated for specific purposes consistent with the goals of this section.

(h) For the purposes of this section, the following definitions apply:

(1) “Global warming gases” has the same meaning as greenhouse gases given in subdivision (h) of Section 42801.1.

(2) "Upstream emissions" means emissions of global warming gases that occur during the extraction, refining, transport, and local distribution of motor vehicle fuels as determined by the state board.

SEC. 403. Section 43812 of the Health and Safety Code is amended to read:

43812. For the purposes of this article, the following definitions apply:

(a) "Department" means the Department of General Services.

(b) "Director" means the Director of General Services.

(c) "Energy-efficient vehicle" means either of the following:

(1) A vehicle that meets California's super ultra-low emission vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations.

(2) A hybrid vehicle or an alternative fuel vehicle that meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions.

(d) "Local agency" means any governmental subdivision, district, public and quasi-public corporation, joint powers agency, public agency or public service corporation, authority, agency, board, commission, town, city, county, city and county, fire district, special district, school district, public utility, community college, or municipal corporation, whether incorporated or not or whether chartered or not, or any other public entity.

(e) "State agency" means any department, division, board, bureau, commission, or other authority of the State of California, the University of California, or the California State University.

SEC. 404. Section 43867 of the Health and Safety Code is amended to read:

43867. For the purposes of this article, the following terms have the following meanings:

(a) "Alternative fuel" means a nonpetroleum fuel, including electricity, ethanol, biodiesel, hydrogen, methanol, or natural gas that, when used in vehicles, has *been* demonstrated, to the satisfaction of the state board, to have the ability to meet applicable vehicular emission standards. For the purpose of this

section, alternative fuel may also include petroleum fuel blended with nonpetroleum constituents, such as E85 or B20.

(b) "Full fuel-cycle assessment" means evaluating and comparing the full environmental and health impacts of each step in the life cycle of a fuel, including, but not limited to, all of the following:

(1) Feedstock extraction, transport, and storage.

(2) Fuel production, distribution, transport, and storage.

(3) Vehicle operation, including refueling, combustion or conversion, and evaporation.

SEC. 405. Section 44037 of the Health and Safety Code is amended to read:

44037. (a) The department shall compile and maintain records, using the sampling methodology necessary to ensure their scientific validity and reliability, of tests and repairs performed by qualified smog check ~~technician~~ *technicians* at licensed smog check stations pursuant to this chapter on all of the following information:

(1) The motor vehicle identification information and the test data collected at the station.

(2) The number of maintenance and repair operations performed on motor vehicles ~~which~~ *that* fail to pass a test conducted pursuant to this chapter.

(3) The correlation between maintenance and repairs recommended by the department pursuant to Section 44016 and maintenance and repairs performed.

(4) The charges assessed for the service and repairs and the correlation between the amount charged for repairs and the amount of emission reduction.

(5) Data received and compiled through the use of the centralized computer ~~data base~~ *database* and computer network to be established pursuant to Section 44037.1, and any other information determined to be essential by the department for program enhancement to achieve greater efficiency, consumer protection, cost-effectiveness, convenience, or emission reductions.

(6) The frequency of specific smog check stations ~~which issue~~ *issuing* a passing certificate for vehicles ~~which~~ *that* have failed a previous inspection at other smog check stations within the preceding 30 days.

(b) A written summary of the information specified in subdivision (a) shall be available annually for the technicians and smog check stations in each district and to the public upon request.

SEC. 406. Section 44090 of the Health and Safety Code is amended to read:

44090. For purposes of this article, the following terms have the following ~~meaning~~ *meanings*:

(a) "Account" means the High Polluter Repair or Removal Account created pursuant to subdivision (a) *of* Section 44091.

(b) "High polluter" means a high-emission motor vehicle, including, but not limited to, a gross polluter.

SEC. 407. Section 44366 of the Health and Safety Code is amended to read:

44366. ~~(a)~~ In order to verify the accuracy of any information submitted by facilities pursuant to this part, a district or the state board may proceed in accordance with Section 41510.

SEC. 408. Section 50660.5 of the Health and Safety Code is amended to read:

50660.5. (a) It is the intent of the Legislature to encourage local governments to assist residents to repair and rebuild housing in a cost-efficient and expeditious manner following a disaster. To this end, the Legislature recognizes that local governments may enact ordinances following disasters to expedite the permit process. These ordinances may include, but not be limited to, ordinances waiving fees and streamlining requirements affecting disaster-related repairs.

(b) The Legislature finds and declares that homeowners and owners of rental housing who apply for assistance pursuant to ~~Section~~ *Sections* 50662.7, 50671.5, and 50671.6 may be unable to utilize expedited procedures or liberalized standards because loan approval and repair may occur after the expiration of the local ordinance. It is, therefore, the intent of the Legislature to encourage local governments to extend the application of these local ordinances to homeowners and owners of rental housing who are utilizing disaster assistance programs, including the respective loan programs authorized by Sections 50662.7, 50671.5, and 50671.6, so that housing can be repaired or rebuilt in a cost-efficient and expeditious manner.

SEC. 409. Section 50896 of the Health and Safety Code is amended to read:

50896. The Legislature hereby finds and declares all of the following:

(a) The ~~Cranston-Gonzales~~ *Cranston-Gonzalez* National Affordable Housing Act of 1990 ~~(Public Law~~ *(P.L.* 101-625) was enacted to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American.

(b) Title II of that law establishes the HOME Investment Partnership Act ~~(otherwise~~, *otherwise* referred to as ~~HOME)~~ *HOME*, to *do all of the following*: ~~(1)~~ expand

(1) Expand the supply of decent, safe, and affordable housing with primary attention to low-income rental housing~~; (2)~~ ~~strengthen~~.

(2) Strengthen the abilities of states and local governments to design and implement affordable housing strategies~~; and (3)~~ ~~provide~~.

(3) Provide both federal financial and technical assistance to support state and local efforts.

(c) HOME, as administered by the United States Department of Housing and Urban Development, allocates funds by formula among the eligible states and units of local government ~~which~~ *that* shall use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, and new construction of housing and tenant-based rental assistance.

(d) It is the intent of the Legislature in enacting this chapter to complement federal law and regulations by prescribing more precisely state priorities and procedures for expending the state's allocation under the HOME program, providing technical assistance and coordination of HOME activities within the State of California, and maximizing and fully utilizing all financial resources for housing.

SEC. 410. Section 50896.1 of the Health and Safety Code is amended to read:

50896.1. The Department of Housing and Community Development shall be the state agency responsible for *both of the following*:

(a) The administration of the state's allocation of HOME funds in accordance with the requirements of Title II of the

~~Cranston-Gonzales~~ *Cranston-Gonzalez* National Affordable Housing Act, federal regulations, and this chapter.

(b) ~~Provision —~~*The provision* of technical assistance and coordination of the HOME activities as may be requested by local governments or community housing development organizations receiving allocations of HOME funds.

SEC. 411. Section 50896.2 of the Health and Safety Code is amended to read:

50896.2. As used in this chapter:

(a) "HOME" means the HOME Investment Partnership Act as enacted in Title II of the ~~Cranston-Gonzales~~ *Cranston-Gonzalez* National Affordable Housing Act.

(b) "Local agency," as defined in Section 50077, shall also mean "units of local government," as defined in Section 92.2, Subpart A of Part 92 of Subtitle A of Title 24 of the Code of Federal Regulations.

(c) "Community housing development organizations" means the nonprofit organizations described in Section 92.300, Subpart G of Part 92 of Subtitle A of Title 24 of the Code of Federal Regulations.

(d) "Housing sponsor" shall have the same meaning as defined in Section 50074.

SEC. 412. Section 51504 of the Health and Safety Code is amended to read:

51504. (a) The agency shall administer a downpayment assistance program that includes, but is not limited to, all of the following:

(1) Downpayment assistance shall include, but not be limited to, a deferred-payment, low-interest, junior mortgage loan to reduce the principal and interest payments and make financing affordable to first-time low- and moderate-income home buyers.

(2) (A) Except as provided in subparagraph (B) or (C), the amount of downpayment assistance shall not exceed 3 percent of the home ~~sales~~ *sale* price.

(B) The amount of downpayment assistance for a new home within an infill opportunity zone, as defined in Section 65088.1 of the Government Code, a transit village development district, as defined in Section 65460.4 of the Government Code, or a transit-oriented development specific plan area, as defined in paragraph (6), shall not exceed 5 percent of the purchase price or

the appraised value, whichever amount is less, of the new home. The borrower of the downpayment assistance shall provide the lender originating the loan with a certification from the local government agency administering the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area that states that the property involved in the loan transaction is within the boundaries of either the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area.

(C) Notwithstanding paragraph (1), the agency may, but is not required to, provide downpayment assistance that does not exceed 6 percent of the home ~~sales~~ *sale* price to first-time low-income home buyers who, as documented to the agency by a nonprofit organization that is certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization as a neighborhood in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families. The agency shall not use more than six million dollars ($6,000,000) in funds made available pursuant to Section 53533 for the purposes of this paragraph.

(3) The amount of the downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(4) The amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided that the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(5) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

(6) For the purposes of this section, “transit-oriented development specific plan area” means a specific plan that meets the criteria set forth in Section 65451 of the Government Code, is

centered around a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, and is intended to achieve a higher density use of land that facilitates use of the transit station.

(b) In addition to the downpayment assistance program authorized by subdivision (a), the agency may, at its discretion, use not more than seventy-five million dollars ($75,000,000) of the funds available pursuant to this chapter to finance the acquisition of land and the construction and development of for-sale residential structures, through short-term loans pursuant to its authority pursuant to Section 51100~~; however~~. *However*, the agency shall make downpayment assistance provided pursuant to paragraph (1), subparagraphs (A) and (B) of paragraph (2), and paragraphs (3) to (5), inclusive, of subdivision (a) the priority use for these funds. A loan made pursuant to this section is not subject to~~ the provisions of~~ Article 4 (commencing with Section 51175) of Chapter 5.

SEC. 413. Section 52020 of the Health and Safety Code is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire~~,~~ home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages, and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution~~ which~~ *that* transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county,~~ or~~ a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an

agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions ~~which~~ *that*, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds, or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages, and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home

mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county ~~which~~ *that* finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county ~~which~~ *that* finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing ~~this~~ *these* criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) (1) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(A) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(B) One hundred twenty percent of the median household income for mortgages where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 50 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household

income. The resolution is final and conclusive as to the findings required by this paragraph.

(C) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and ~~which~~ *that* is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

(2) As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for an area, as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) (1) Subdivision (d) shall not apply with respect to home finance programs funded with amounts made available by the issuance of revenue bonds that ~~(1)~~, for federal tax law purposes, are bonds refunding qualified mortgage bonds issued before January 1, 1987, and ~~(2)~~ *that* satisfy the requirements of subdivision (a) of Section 1313 of the federal Tax Reform Act of 1986. With respect to these programs, the maximum household income for qualification of persons and families pursuant to this section shall be the following:

(A) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this

paragraph, the maximum income of persons and families shall also be 150 percent of the median household income. For purposes of this paragraph, a mortgage made for improving a home includes a home improvement loan as defined in Section 143 of Title 26 of the United States Code.

(B) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 110 percent of the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(C) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and ~~which~~ *that* is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or

improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

(2) As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for an area, as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(f) Each city or county ~~which~~ *that* finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

SEC. 414. Section 53533 of the Health and Safety Code is amended to read:

53533. (a) ~~Money~~ *Moneys* deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

(1) Nine hundred ten million dollars ($910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to Chapter 5 (commencing with Section 50600) of Part 2.

(B) Twenty million dollars ($20,000,000) shall be used for nonresidential space for supportive services, including, but not limited to, job training, health services, and child care within, or immediately proximate to, projects to be funded under the Multifamily Housing Program. This funding shall be in addition

to any applicable per-unit or project loan limits and may be in the form of a grant. Service providers shall ensure that services are available to project residents on a priority basis over the general public.

(C) Twenty-five million dollars ($25,000,000) shall be used for matching grants to local housing trust funds pursuant to Section 50843.

(D) Fifteen million dollars ($15,000,000) shall be used for student housing through the Multifamily Housing Program, subject to the following provisions:

(i) The department shall give first priority for projects on land owned by a University of California or California State University campus. Second priority shall be given to projects located within one mile of a University of California or California State University campus that is suffering from a severe shortage of housing and limited availability of developable land as determined by the department. Those determinations shall be set forth in the Notice of Funding Availability and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(ii) All funds shall be matched on a one-to-one basis from private sources or by the University of California or California State University. For the purposes of this subparagraph, "University of California" includes the Hastings College of the Law.

(iii) Occupancy for the units shall be restricted to students enrolled on a full-time basis in the University of California or California State University.

(iv) Income eligibility pursuant to the Multifamily Housing Program shall be established by verification of the combined income of the student and his or her family.

(v) Any funds not used for this purpose within 24 months of the date that the funds are made available shall be awarded pursuant to subdivision (a) for the Downtown Rebound Program as set forth in paragraph (1) of subdivision (c) of Section 50898.2.

(E) Any funds not encumbered for the purposes set forth in this paragraph, except subparagraph (D), within 30 months of availability shall revert to the Housing Rehabilitation Loan Fund

created by Section 50661 for general use in the Multifamily Housing Program.

(2) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section ~~50800~~ *50800)* of Part ~~2)~~ *2*.

(3) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for supportive housing projects under the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to serve individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness.

(4) Two hundred million dollars ($200,000,000) shall be transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund to be expended for farmworker housing programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2, except for the following:

(A) Twenty-five million dollars ($25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations. If, after July 1, 2003, funds remain after the approval of all feasible applications, the department shall be deemed an eligible recipient for the purposes of reconstructing migrant centers operated through the Office of Migrant Services pursuant to Chapter 8.5 (commencing with Section 50710) that would otherwise be scheduled for closure due to health or safety considerations or are in need of significant repairs to ensure the health and safety of the residents. Of the dollars allocated by this subparagraph, the department shall receive fifteen million dollars ($15,000,000) for these purposes subject to the following conditions and requirements:

(i) The amount available to the department as a recipient shall be limited to ten million seven hundred thousand dollars ($10,700,000) prior to September 1, 2006. The department may receive up to four million three hundred thousand dollars ($4,300,000) in additional funds after that date and prior to July 1, 2007, to the extent that unencumbered funds are available.

(ii) The department shall make at least eight million one hundred fifty-nine thousand dollars ($8,159,000) available for flexible loans and grants for projects that serve migratory agricultural workers pursuant to subdivision (a) of Section 50517.10. These funds shall be available for encumbrance until September 1, 2006.

(iii) Any funds allocated by this subparagraph remaining unencumbered on July 1, 2007, shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(B) Twenty million dollars ($20,000,000) shall be used for developments that also provide health services to the residents. Recipients of these funds shall be required to provide ongoing monitoring of funded developments to ensure compliance with the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program. Projects receiving funds through this allocation shall be ineligible for funding through the Joe Serna, Jr. Farmworker Housing Grant Program.

(C) Except as provided in subparagraph (A) funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(5) Two hundred five million dollars ($205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1 *of this code*, these funds are hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes of the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars ($75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to Chapter 4.5 (commencing with Section 50860) of Part 1.

(B) Five million dollars ($5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph,

"exterior modifications" includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to ~~the requirements of~~ Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars ($10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.

(6) Five million dollars ($5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to ~~the requirements of~~ Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars ($290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars ($85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600). The agency may transfer these moneys as often as quarterly in amounts that shall not exceed the dollar amount of new insurance written by the agency during the preceding quarter for loans for the purchase of homes made to owner-occupant borrowers with

incomes not exceeding 120 percent of the area median income, divided by the risk-to-capital ratio required for the maintenance of satisfactory credit ratings from nationally recognized credit rating services.

(C) (i) Twelve million five hundred thousand dollars ($12,500,000) shall be reserved for downpayment assistance to low-income first-time home buyers who, as documented to the agency by a nonprofit organization certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received home ownership counseling from the nonprofit organization. Community revitalization areas shall be limited to targeted neighborhoods identified by qualified nonprofit organizations as those neighborhoods in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families.

(ii) Effective January 1, 2004, 50 percent of the funds available pursuant to clause (i) shall be available for downpayment assistance in an amount not to exceed 6 percent of the home ~~sales~~ *sale* price.

(iii) After 12 months of availability, if more than 50 percent of the funds set aside pursuant to clause (ii) have been encumbered, the agency shall discontinue that program and make all remaining funds available for downpayment assistance pursuant to clause (i). If, however, less than 50 percent of the funds allocated pursuant to clause (ii) are encumbered after that 12-month period, the agency may, at its sole discretion, either make all remaining funds provided pursuant to clause (i) available for the purpose of clause (ii), or may continue to implement clause (ii) until all of the funds allocated for that purpose as of January 1, 2004, have been encumbered.

(D) Twenty-five million dollars ($25,000,000) shall be used for downpayment assistance pursuant to Section 51505. After 18 months of availability, if the agency determines that the funds set aside pursuant to this section will not be utilized for purposes of Section 51505, these funds shall be available for the general use of the agency for the purposes of the California Homebuyer's

Downpayment Assistance Program, but may also continue to be available for the purposes of Section 51505.

(E) Funds not utilized for the purposes set forth in subparagraphs (B) and (C) within 30 months shall revert for general use in the California Homebuyer's Downpayment Assistance Program.

(8) One hundred million dollars ($100,000,000) shall be transferred to the Jobs Housing Improvement Account to be expended as capital grants to local governments for increasing housing pursuant to enabling legislation. If the enabling legislation fails to become law in the 2001–02 Regular Session of the Legislature, the specified allocation for this program shall be void and the funds shall revert for general use in the Multifamily Housing Program as specified in paragraph (1) of subdivision (a).

(b) No portion of the ~~money~~ *moneys* allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

(c) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this section for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(d) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.

SEC. 415. Section 101630 of the Health and Safety Code is amended to read:

101630. Notwithstanding any other provision of law:

(a) The state or any state agency may enter into contracts with the authority for the authority to obtain or arrange for health care under the authority's health care systems, for all persons who are eligible to receive medical benefits under the Medi-Cal Act (Chapter 7 (commencing with ~~Sec.~~ *Section* 14000)~~,~~ *of* Part 3~~.~~ *of* Division 9~~,~~ *of the* Welfare and Institutions Code) in Monterey County through waiver, pilot project, or otherwise.

(b) The County of Monterey or any city in the County of Monterey may enter into contracts with the authority to obtain or provide health care services for all persons from Monterey County or any city in that county who are eligible to receive health care under Parts 4.5 (commencing with Section 16700) and 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(c) The department shall pursue waivers of federal law as necessary, in order to carry out this section.

SEC. 416. Section 105195 of the Health and Safety Code is amended to read:

105195. (a) Sections 105185 and 105190 shall apply to the following industries:

(1) 1622 Bridges, tunnels, and elevated highways.
(2) 1721 Painting, paper hanging, and decorating.
(3) 1791 Structural steel erection.
(4) 1795 Wrecking and demolition work.
(5) 2759 Commercial printing.
(6) 2816 Inorganic pigments manufacture.
(7) 2819 Industrial inorganic chemicals.
(8) 2821 Plastics materials and resins.
(9) 2892 Explosives manufacture.
(10) 2899 Chemical preparations.
(11) 3069 Fabricated rubber products.
(12) 3087 Custom compounding of purchased plastics resins.
(13) 3089 Plastic products.
(14) 3229 Pressed and blown glass.
(15) 3231 Products of purchased glass.
(16) 3253 Ceramic walls and floor tiles.
(17) 3262 Vitreous china food utensils.
(18) 3269 Pottery products.
(19) 3313 ~~Electrometalurgical~~ *Electrometallurgical* products.
(20) 3331 Primary copper.
(21) 3339 Primary nonferrous metals, except copper and aluminum.
(22) 3341 Secondary nonferrous metals.
(23) 3356 Nonferrous rolling, drawing, extruding.
(24) 3363 Aluminum die castings.
(25) 3364 Nonferrous die castings.
(26) 3365 Aluminum foundries.

(27) 3366 Copper foundries.
(28) 3369 Nonferrous foundries.
(29) 3399 Primary metal products.
(30) 3411 Metal cans manufacture.
(31) 3431 Metal sanitary ware.
(32) 3432 Plumbing fittings and brass goods.
(33) 3441 Fabricated structural metal.
(34) 3484 Small arms.
(35) 3491 Industrial valves.
(36) 3492 Fluid power valves and hose fittings.
(37) 3494 Valves and pipe fittings.
(38) 3496 Miscellaneous fabricated wire products.
(39) 3497 Metal foil and leaf.
(40) 3585 Refrigeration and heating equipment.
(41) 3599 Machinery, except electrical.
(42) 3624 Carbon and graphite products.
(43) 3661 Telephone and telegraph apparatus.
(44) 3662 Radio and television communication equipment.
(45) 3663 Radio and television equipment.
(46) 3669 Communications equipment.
(47) 3674 Semiconductors and related devices.
(48) 3691 Storage batteries.
(49) 3692 Primary batteries, dry and wet.
(50) 3699 Electrical equipment and supplies.
(51) 3711 Motor vehicles and car bodies.
(52) 3714 Motor vehicle parts and accessories.
(53) 3721 Aircraft.
(54) 3953 Marking devices.
(55) 3812 Search and navigation equipment.
(56) 3829 Measuring and controlling devices.
(57) 5064 Electrical appliances, television, and radios.
(58) 5093 Scrap and waste materials.
(59) 7538 General automotive repair shops.
(60) 7539 Automotive repair shops.
(61) 7997 Membership sports and recreation clubs.
(62) 7999 Amusement and recreation.

(b) (1) If the department determines that the potential for occupational lead poisoning exists in industries not covered by this section, based on new evidence, the department shall have the authority to add Standard Industrial Classification codes by

regulation. Multiple case reports of occupational lead toxicity shall be a criterion for adding Standard Industrial Classification codes covered by this section for the purpose of fee assessment.

(2) If the department determines that lead use and lead exposure no longer exist in an industry covered by this section, based on new evidence, the department shall delete the Standard Industrial Classification code or individual industries within a Standard Industrial Classification code by regulation. If the department otherwise determines that the potential for occupational lead poisoning no longer exists in an industry covered by this section, based on new evidence, the department shall have the authority to delete Standard Industrial Classification codes or individual industries with a Standard Industrial Classification code by regulation. If the department determines that lead use and lead exposure no longer exist in the operations of an employer in an industry covered by this section, based on evidence submitted by the employer, the department may waive the fee of that employer.

SEC. 417. Section 105215 of the Health and Safety Code is amended to read:

105215. *(a)* Any public employee, as defined in Section 811.4 of the Government Code, whose responsibilities include matters relating to health and safety, protection of the environment, or the use or transportation of any pesticide and who knows, or has reasonable cause to believe, that a pesticide has been spilled or otherwise accidentally released, shall promptly notify the local health officer or the notification point specified in the local hazardous materials response plan, where ~~such a~~ *the* plan has been approved by the State Office of Emergency Services and is in operation. The operator of the notification point shall immediately notify the local health officer of the pesticide spill report.

(b) The local health officer shall immediately notify the county agricultural commissioner and, at his or her discretion, shall immediately notify the Director of Environmental Health Hazard Assessment of each report received. Within seven days after receipt of any report, the local health officer shall notify the Director of Pesticide Regulation, the Director of Environmental Health Hazard Assessment, and the Director of Industrial Relations, on a form prescribed by the Director of Environmental

Health Hazard Assessment, of each case reported to him or her pursuant to this section.

(c) The Office of Environmental Health Hazard Assessment shall designate a phone number or numbers for use by local health officers in the immediate notification of the office of a pesticide spill report. The office ~~of~~ shall from time to time establish criteria for use by the local health officers in determining whether the circumstances of a pesticide spill warrants the immediate notification of the office.

SEC. 418. Section 105280 of the Health and Safety Code is amended to read:

105280. For purposes of this chapter, the following definitions apply:

(a) "Appropriate case management" means health care referrals, environmental assessments, and educational activities, performed by the appropriate person, professional, or entity, necessary to reduce a child's exposure to lead and the consequences of the exposure, as determined by the United States Centers for Disease Control, or as determined by the department pursuant to Section 105300.

(b) "Lead poisoning" means the disease present when the concentration of lead in whole venous blood reaches or exceeds levels constituting a health risk, as specified in the most recent United States Centers for Disease Control guidelines for lead poisoning as determined by the department, or when the concentration of lead in whole venous blood reaches or exceeds levels constituting a ~~heath~~ *health* risk as determined by the department pursuant to Section 105300.

(c) "Department" means the State Department of Health Services.

(d) "Health assessment" has the same meaning as prescribed in Section 6800 of Title 17 of the California Code of Regulations.

(e) "Screen" means the medical procedure by which the concentration of lead in whole venous blood is measured.

(f) "Health care" means the identification, through evaluation and screening, if indicated, of lead poisoning, as well as any followup medical treatment necessary to reduce the elevated blood lead levels.

(g) "Environmental lead contamination" means the persistent presence of lead in the environment, in quantifiable amounts, that results in ongoing and chronic exposure to children.

SEC. 419. Section 107040 of the Health and Safety Code is amended to read:

107040. Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices that constitute or will constitute a violation of any provision of the Radiologic Technology Act (Section 27), or any rule, regulation, or order issued thereunder, and at the request of the department, the Attorney General may make application to the superior court for an order enjoining ~~this~~ *these* acts or practices, or for an order directing compliance, and upon a showing by the department that the person has engaged in or is about to engage in any acts or practices, a temporary or permanent injunction, restraining order, or other order may be granted.

SEC. 420. Section 107065 of the Health and Safety Code is amended to read:

107065. Every holder of a certificate or a permit issued pursuant to the Radiologic ~~Tecnology~~ *Technology* Act (Section 27) may be disciplined as provided in Sections 107065 and 107670. The proceedings under Sections 107065 and 107670 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all of the powers granted therein.

SEC. 421. Section 107080 of the Health and Safety Code is amended to read:

107080. (a) The application fee for any certificate or permit issued pursuant to the Radiologic ~~Tecnology~~ *Technology* Act (Section 27) shall be established by the department in an amount ~~as~~ it deems reasonably necessary to carry out the purpose of that act.

(b) The fee for any examination conducted pursuant to the Radiologic ~~Tecnology~~ *Technology* Act (Section 27), after failure of that examination within the previous 12 months, shall be fixed by the department in an amount it deems reasonably necessary to carry out that act.

(c) The annual renewal fee for each certificate or permit shall be fixed by the department in an amount it deems reasonably necessary to carry out the Radiologic ~~Tecnology~~ *Technology* Act (Section 27) .

(d) The penalty fee for renewal of any certificate or permit if application is made after its date of expiration shall be five dollars ($5) and shall be in addition to the fee for renewal prescribed by subdivision (c).

(e) The fee for a duplicate certificate or permit shall be one dollar ($1).

(f) No fee shall be required for a certificate or permit or a renewal thereof except as prescribed in the Radiologic Technology Act (Section 27).

SEC. 422. Section 108310 of the Health and Safety Code is amended to read:

108310. ~~As under~~ *For the purposes of* this article, *the following terms have the following meanings*:

(a) "Manufacturer" includes an importer for resale.

(b) A dealer who sells at wholesale an article or substance shall, with respect to that sale, be considered the distributor of that article or substance.

SEC. 423. Section 109350 of the Health and Safety Code is amended to read:

109350. The department may direct that any individual, person, firm, association, or other entity shall cease and desist any further prescribing, recommending, or use of any drug, medicine, compound, or device for ~~that~~ *which* no application has been approved under this article and Article 1 (commencing with Section 109250) unless its use is exempt under Section 109325 or ~~Section~~ 109330.

SEC. 424. Section 109360 of the Health and Safety Code is amended to read:

109360. Any person against whom an injunction or cease and desist order has been issued, under this article and Article 1 (commencing with Section 109250), may not undertake to use in the diagnosis, treatment, alleviation, or cure of cancer any new, experimental, untested, or secret drug, medicine, compound, or device for ~~that~~ *which* there is no approved application on file or that does not qualify for an exemption, without first submitting an application to the department.

SEC. 425. Section 111080 of the Health and Safety Code is amended to read:

111080. The quality and labeling standards requirements for bottled water and vended water, including mineral water, shall include all standards prescribed by Section 165.110 of Title 21 of the Code of Federal Regulations. In addition, bottled water and vended water, when bottled, shall comply with the following quality standards and any additional quality standards adopted by regulation that the department determines are reasonably necessary to protect the public health:

(a) Bottled water and vended water shall meet all maximum contaminant levels set for public drinking water that the department determines are necessary or appropriate so that bottled water may present no adverse effect on public health. New or revised allowable levels or monitoring provisions adopted for bottled water by the United States Food and Drug Administration under the federal Food, Drug and Cosmetic Act that are more stringent than the state requirements for bottled water are incorporated into this chapter and are effective on the date established by the federal provisions unless otherwise established by regulations of the department.

(b) Bottled and vended water shall not exceed 10 parts per billion of total ~~triahalomethanes~~ *trihalomethanes* or five parts per billion of lead unless the department establishes a lower level by regulation.

(c) Bottled and vended water shall contain no chemicals in concentrations that the United States Food and Drug Administration or the state department has determined may have an adverse effect on public health.

SEC. 426. Section 112025 of the Health and Safety Code is amended to read:

112025. No employee or other person shall expectorate or discharge any substance from his or her nose or mouth on the floor or interior side wall of any building, room, basement, or cellar where the production, preparation, manufacture, packing, storing, or sale of any food is conducted.

SEC. 427. Section 112030 of the Health and Safety Code is amended to read:

112030. No person shall, nor shall any person be allowed to, reside or sleep in any room of a bake-shop, public ~~diningroom~~

dining room, hotel or restaurant kitchen, confectionery, or other place where food is prepared, produced, manufactured, served, or sold.

SEC. 428. Section 113843 of the Health and Safety Code, as added by Section 2 of Chapter 874 of the Statutes of 1996, is repealed.

~~113843. "Potable water" means, for the purposes of this chapter, water that complies with the requirements for water from transient noncommunity water systems under the California Safe Drinking Water Act.~~

SEC. 429. Section 113844 of the Health and Safety Code is amended to read:

113844. "Potable water" means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section ~~116275)~~ *116270)* of Part 12), to the extent permitted by federal law.

SEC. 430. Section 113955 of the Health and Safety Code is amended to read:

113955. The hearing officer shall issue a written notice of decision to the permittee within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with ~~that~~ *which* the permittee is charged, and shall state the terms of the suspension or that the permit has been revoked.

SEC. 431. Section 114400 of the Health and Safety Code is amended to read:

114400. (a) All utensils and equipment shall be ~~scrapped~~ *scraped*, cleaned, or sanitized as circumstances require.

(b) Restricted food service transient occupancy establishments shall comply with ~~the provisions of~~ subdivisions (b) to (e), inclusive, of Section 114090 or, at the option of the owner or operator of the establishment, shall utilize a domestic or commercial dishwasher for the purpose of cleaning and sanitizing multiservice kitchen utensils and multiservice consumer utensils~~; provided, however, that~~ *if* the dishwasher is capable of providing heat to the surface of the utensils of a temperature of at least 165 degrees Fahrenheit. Except as otherwise set forth in this subdivision, restricted food service

transient occupancy establishments shall comply with Section 114090.

SEC. 432. Section 115040 of the Health and Safety Code is amended to read:

115040. (a) The license designee shall file periodic financial reports with the department as directed by the department. These reports shall provide detailed information on past and projected expenditures for development and operation of the low-level radioactive waste disposal site according to ~~progammatic~~ *programmatic* function, including, but not limited to, all of the following:

(1) Program management.

(2) Candidate sites selection.

(3) Site characterization.

(4) Environmental.

(5) Public and agency involvement.

(6) Licensing and permitting.

(7) Site development.

(8) Land acquisition.

(9) Financing.

(10) Operations.

(b) The license designee shall file reports with the department, as directed by the department, that identify, quantify, and explain major causes of actual and projected cost overruns and cost underruns with regard to the cost projections provided in the statement of capabilities and notice of intent.

(c) The Legislature finds and declares that the purpose of this section is to identify minimum financial reporting requirements for the costs of developing and operating the state's low-level radioactive waste disposal facility. This section does not limit the authority of the department to require the license designee to furnish any additional information that the department determines to be necessary to fulfill its duties under this chapter, including Section 115030.

SEC. 433. Section 115061 of the Health and Safety Code is amended to read:

115061. (a) In order to better protect the public and radiation workers from unnecessary exposure to radiation and to reduce the occurrence of misdiagnosis, the Radiologic Health Branch within the State Department of Health Services shall adopt

regulations that require personnel and facilities using radiation-producing equipment for medical and dental purposes to maintain and implement medical and dental quality assurance standards that protect the public health and safety by reducing unnecessary exposure to ionizing radiation while ensuring that images are of diagnostic quality. The standards shall require quality assurance tests to be performed on all radiation-producing equipment used for medical and dental purposes.

(b) The ~~Radiological~~ *Radiologic* Health Branch shall adopt the regulations described in subdivision (a) and provide the regulations to the health committees of the Assembly and the Senate on or before January 1, 2008.

(c) For purposes of this section, "medical and dental quality assurance" means the detection of a change in X-ray and ancillary equipment that adversely affects the quality of films or images and the radiation dose to the patients, and the correction of this change.

SEC. 434. Section 115255 of the Health and Safety Code is amended to read:

115255. The provisions of the Southwestern Low-Level Radioactive Waste Disposal Compact are as follows:

Article 1. Compact Policy and Formation

The party states hereby find and declare all of the following:

(A) The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act, Public Law 96-573, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Sec. 2021b to 2021j, incl.), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(B) It is the purpose of this compact to provide the means for such a cooperative effort between or among party states to protect the citizens of the states and the states' environments.

(C) It is the policy of party states to this compact to encourage the reduction of the volume of low-level radioactive waste requiring disposal within the compact region.

(D) It is the policy of the party states that the protection of the health and safety of their citizens and the most ecological and

economical management of low-level radioactive wastes can be accomplished through cooperation of the states by minimizing the amount of handling and transportation required to dispose of these wastes and by providing facilities that serve the compact region.

(E) Each party state, if an agreement state pursuant to Section 2021 of Title 42 of the United States Code, or the Nuclear Regulatory Commission if not an agreement state, is responsible for the primary regulation of radioactive materials within its jurisdiction.

Article 2. Definitions

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(A) "Commission" means the Southwestern Low-Level Radioactive Waste Commission established in Article 3 of this compact.

(B) "Compact region" or "region" means the combined geographical area within the boundaries of the party states.

(C) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental Protection Agency under applicable laws, or by a party state if that state hosts a disposal facility.

(D) "Generate," when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(E) "Generator" means a person whose activity, excluding the management of low-level radioactive waste, results in the production of low-level radioactive waste.

(F) "Host county" means a county, or other similar political subdivision of a party state, in which a regional disposal facility is located or being developed.

(G) "Host state" means a party state in which a regional disposal facility is located or being developed. The State of California is the host state under this compact for the first 30 years from the date the California regional disposal facility commences operations.

(H) "Institutional control period" means that period of time in which the facility license is transferred to the disposal site owner

in compliance with the appropriate regulations for long-term observation and maintenance following the postclosure period.

(I) "Low-level radioactive waste" means regulated radioactive material that meets all of the following requirements:

(1) The waste is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(e)(2))).

(2) The waste is not uranium mining or mill tailings.

(3) The waste is not any waste for which the federal government is responsible pursuant to subdivision (b) of Section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Sec. 2021c(b)).

(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than 100 nanocuries per gram, or Plutonium-241 with a concentration greater than 3,500 nanocuries per gram, or Curium-242 with a concentration greater than 20,000 nanocuries per gram.

(J) "Management" means collection, consolidation, storage, packaging, or treatment.

(K) "Major generator state" means a party state that generates 10 percent of the total amount of low-level radioactive waste produced within the compact region and disposed of at the regional disposal facility.

If no party state other than California generates at least 10 percent of the total amount, "major generator state" means the party state which is second to California in the amount of waste produced within the compact region and disposed of at the regional disposal facility.

(L) "Operator" means a person who operates a regional disposal facility.

(M) "Party state" means any state that has become a party in accordance with Article 7 of this compact.

(N) "Person" means an individual, corporation, partnership, or other legal entity, whether public or private.

(O) "Postclosure period" means that period of time after completion of closure of a disposal facility during which the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal facility to assure that the disposal facility will remain stable and will not need ongoing

active maintenance. This period ends with the beginning of the institutional control period.

(P) "Regional disposal facility" means a nonfederal low-level radioactive waste disposal facility established and operated under this compact.

(Q) "Site closure and stabilization" means the activities of the disposal facility operator taken at the end of the disposal facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at the disposal facility.

(R) "Transporter" means a person who transports low-level radioactive waste.

(S) "Uranium mine and mill tailings" means waste resulting from mining and processing of ores containing uranium.

Article 3. The Commission

(A) There is hereby established the Southwestern Low-Level Radioactive Waste Commission.

(1) The commission shall consist of one voting member from each party state to be appointed by the Governor, confirmed by the Senate of that party state, and to serve at the pleasure of the Governor of each party state, and one voting member from the host county. The appointing authority of each party state shall notify the commission in writing of the identity of the member and of any alternates. An alternate may act in the member's absence.

(2) The host state shall also appoint that number of additional voting members of the commission that is necessary for the host state's members to compose at least 51 percent of the membership on the commission. The host state's additional members shall be appointed by the host state Governor and confirmed by the host state Senate.

If there is more than one host state, only the state in which is located the regional disposal facility actively accepting low-level radioactive waste pursuant to this compact may appoint these additional members.

(3) If the host county has not been selected at the time the commission is appointed, the Governor of the host state shall appoint an interim local government member, who shall be an

elected representative of a local government. After a host county is selected, the interim local government member shall resign and the Governor shall appoint the host county member pursuant to paragraph (4).

(4) The Governor shall appoint the host county member from a list of at least seven candidates compiled by the board of supervisors of the host county.

(5) In recommending and appointing the host county member pursuant to paragraph (4), the board of supervisors and the Governor shall give first consideration to recommending and appointing the member of the board of supervisors in whose district the regional disposal facility is located or being developed. If the board of supervisors of the host county does not provide a list to the Governor of at least seven candidates from which to choose, the Governor shall appoint a resident of the host county as the host county member.

(6) The host county member is subject to confirmation by the Senate of that party state and shall serve at the pleasure of the Governor of the host state.

(B) The commission is a legal entity separate and distinct from the party states and shall be so liable for its actions. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

(C) The commission shall conduct its business affairs pursuant to the laws of the host state and disputes arising out of commission action shall be governed by the laws of the host state. The commission shall be located in the capital city of the host state in which the regional disposal facility is located.

(D) The commission’s records shall be subject to the host state’s public records law, and the meetings of the commission shall be open and public in accordance with the host state’s open meeting law.

(E) The commission members are public officials of the appointing state and shall be subject to the conflict of interest laws, as well as any other law, of the appointing state. The commission members shall be compensated according to the appointing state’s law.

(F) Each commission member is entitled to one vote. A majority of the commission constitutes a quorum. Unless

otherwise provided in this compact, a majority of the total number of votes on the commission is necessary for the commission to take any action.

(G) The commission has all of the following duties and authority:

(1) The commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region.

(2) The commission shall meet at least once a year and otherwise as business requires.

(3) The commission shall establish a compact surcharge to be imposed upon party state generators. The surcharge shall be based upon the cubic feet of low-level radioactive waste and the radioactivity of the low-level radioactive waste and shall be collected by the operator of the disposal facility.

The host state shall set, and the commission shall impose, the surcharge after congressional approval of the compact. The amount of the surcharge shall be sufficient to establish and maintain at a reasonable level funds for all of the following purposes:

(a) The activities of the commission and commission staff.

(b) At the discretion of the host state, a third-party liability fund to provide compensation for injury to persons or property during the operational, closure, stabilization, and postclosure and institutional control periods of the regional disposal facility. This subparagraph does not limit the responsibility or liability of the operator, who shall comply with any federal or host state statutes or regulations regarding third-party liability claims.

(c) A local government reimbursement fund, for the purpose of reimbursing the local government entity or entities hosting the regional disposal facility for any costs or increased burdens on the local governmental entity for services, including, but not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by local health officials, and emergency preparation and response related to the hosting of the regional disposal facility.

(4) The surcharges imposed by the commission for purposes of subparagraphs (b) and (c) of paragraph (3) and surcharges

pursuant to paragraph (3) of subdivision (E) of Article 4 shall be transmitted on a monthly basis to the host state for distribution to the proper accounts.

(5) The commission shall establish a fiscal year that conforms to the fiscal years of the party states to the extent possible.

(6) The commission shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

(7) The commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the subsequent fiscal year.

(8) The commission may accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant, or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

However, the host state shall receive, for the uses specified in subparagraph (E) of paragraph (2) of subsection (d) of Section 2021e of Title 42 of the United States Code, any payments paid from the special escrow account for which the Secretary of Energy is trustee pursuant to subparagraph (A) of paragraph (2) of subsection (d) of Section 2021 (e) of Title 42 of the United States Code.

(9) The commission shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 15 of each year. The commission shall include in the annual report a review of, and recommendations for, low-level radioactive waste disposal methods which are alternative technologies to the shallow land burial of low-level radioactive waste.

(10) The commission shall assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

(11) The commission shall keep a current inventory of all generators within the region, based upon information provided by the party states.

(12) The commission shall keep a current inventory of all regional disposal facilities, including information on the size, capacity, location, specific low-level radioactive wastes capable of being managed, and the projected useful life of each regional disposal facility.

(13) The commission may establish advisory committees for the purpose of advising the commission on the disposal and management of low-level radioactive waste.

(14) The commission may enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

(15) The commission shall prepare contingency plans, with the cooperation and approval of the host state, for the disposal and management of low-level radioactive waste in the event that any regional disposal facility should be closed.

(16) The commission may sue and be sued and, when authorized by a majority vote of the members, may seek to intervene in an administrative or judicial proceeding related to this compact.

(17) The commission shall be managed by an appropriate staff, including an executive director. Notwithstanding any other provision of law, the commission may hire or retain, or both, legal counsel.

(18) The commission may, subject to applicable federal and state laws, recommend to the appropriate host state authority suitable land and rail transportation routes for low-level radioactive waste carriers.

(19) The commission may enter into an agreement to import low-level radioactive waste into the region only if both of the following requirements are met:

(a) The commission approves the importation agreement by a two-thirds vote of the commission.

(b) The commission and the host state assess the affected regional disposal facilities' capability to handle imported low-level radioactive wastes and any relevant environmental or economic factors, as defined by the host state's appropriate regulatory authorities.

(20) The commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The commission may approve the petition only by a two-thirds vote of the commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the commission.

(21) The commission may approve, only by a two-thirds vote of the commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling.

(22) The commission shall, not later than 10 years before the closure of the initial or subsequent regional disposal facility, prepare a plan for the establishment of the next regional disposal facility.

Article 4. Rights, Responsibilities, and Obligations of Party States

(A) There shall be regional disposal facilities sufficient to dispose of the low-level radioactive waste generated within the region.

(B) Low-level radioactive waste generated within the region shall be disposed of at regional disposal facilities and each party state shall have access to any regional disposal facility without discrimination.

(C) (1) Upon the effective date of this compact, the State of California shall serve as the host state and shall comply with the requirements of subdivision (E) for at least 30 years from the date the regional disposal facility begins to accept low-level radioactive waste for disposal. The extension of the obligation and duration shall be at the option of the State of California.

If the State of California does not extend this obligation, the party state, other than the State of California, which is the largest major generator state shall then serve as the host state for the second regional disposal facility.

The obligation of a host state which hosts the second regional disposal facility shall also run for 30 years from the date the second regional disposal facility begins operations.

(2) The host state may close its regional disposal facility when necessary for public health or safety.

(D) The party states of this compact cannot be members of another regional low-level radioactive waste compact entered into pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b to 2021j, incl.).

(E) A host state shall do all of the following:

(1) Cause a regional disposal facility to be developed on a timely basis.

(2) Ensure by law, consistent with any applicable federal laws, the protection and preservation of public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the regional disposal facilities within the state.

(3) Ensure that charges for disposal of low-level radioactive waste at the regional disposal facility are reasonably sufficient to do all of the following:

(a) Ensure the safe disposal of low-level radioactive waste and long-term care of the regional disposal facility.

(b) Pay for the cost of inspection, enforcement, and surveillance activities at the regional disposal facility.

(c) Assure that charges are assessed without discrimination as to the party state of origin.

(4) Submit an annual report to the commission on the status of the regional disposal facility including projections of the facility's anticipated future capacity.

(5) The host state and the operator shall notify the commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of a regional disposal facility.

(F) Each party state is subject to the following duties and authority:

(1) To the extent authorized by federal law, each party state shall develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and

destined for a regional disposal facility to conform to packaging and transportation requirements and regulations. These procedures shall include, but are not limited to, all of the following requirements:

(a) Periodic inspections of packaging and shipping practices.

(b) Periodic inspections of low-level radioactive waste containers while in the custody of transporters.

(c) Appropriate enforcement actions with respect to violations.

(2) A party state may impose a surcharge on the low-level radioactive waste generators within the state to pay for activities required by paragraph (1).

(3) To the extent authorized by federal law, each party state shall, after receiving notification from a host state that a person in a party state has violated packaging, shipping, or transportation requirements or regulations, take appropriate actions to ensure that these violations do not continue. Appropriate actions may include, but are not limited to, requiring that a bond be posted by the violator to pay the cost of repackaging at the regional disposal facility and prohibit future shipments to the regional disposal facility.

(4) Each party state shall maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a regional disposal facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(5) Each party state shall encourage generators within its borders to minimize the volume of low-level radioactive waste requiring disposal.

(6) Each party state may rely on the good faith performance of the other party states to perform those acts which are required by this compact to provide regional disposal facilities, including the use of the regional disposal facilities in a manner consistent with this compact.

(7) Each party state shall provide the commission with any data and information necessary for the implementation of the commission’s responsibilities, including taking those actions necessary to obtain this data or information.

(8) Each party state shall agree that only low-level radioactive waste generated within the jurisdiction of the party states shall be

disposed of in the regional disposal facility, except as provided in paragraph (19) of subdivision (G) of Article 3.

(9) Each party state shall agree that if there is any injury to persons on property resulting from the operation of a regional disposal facility, the damages resulting from the injury may be paid from the third-party liability fund pursuant to subparagraph (b) of paragraph (3) of subdivision (G) of Article 3, only to the extent that the damages exceed the limits of liability insurance carried by the operator. No party state, by joining this compact, assumes any liability resulting from the siting, operation, maintenance, long-term care, or other activity relating to a regional facility, and no party state shall be liable for any harm or damage resulting from a regional facility not located within the state.

Article 5. Approval of Regional Facilities

A regional disposal facility shall be approved by the host state in accordance with its laws. This compact does not confer any authority on the commission regarding the siting, design, development, licensure, or other regulation, or the operation, closure, decommissioning, or long-term care of, any regional disposal facility within a party state.

Article 6. Prohibited Acts and Penalties

(A) No person shall dispose of low-level radioactive waste within the region unless the disposal is at a regional disposal facility, except as otherwise provided in paragraphs (20) and (21) of subdivision (G) of Article 3.

(B) No person shall dispose of or manage any low-level radioactive waste within the region unless the low-level radioactive waste was generated within the region, except as provided in paragraphs (19), (20), and (21) of subdivision (G) of Article 3.

(C) Violations of this section shall be reported to the appropriate law enforcement agency within the party state’s jurisdiction.

(D) Violations of this section may result in prohibiting the violator from disposing of low-level radioactive waste in the regional disposal facility, as determined by the commission or the host state.

Article 7. Eligibility, Entry into Effect, Congressional Consent, Withdrawal, Exclusion

(A) The States of Arizona, North Dakota, South Dakota, and California are eligible to become parties to this compact. Any other state may be made eligible by a majority vote of the commission and ratification by the legislatures of all of the party states by statute, and upon compliance with those terms and conditions for eligibility which the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this subparagraph, as a member of this compact.

(B) Upon compliance with the other provisions of this compact, an eligible state may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment the legislature enacts this compact.

(C) A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. If a party state which is a major generator of low-level radioactive waste voluntarily withdraws from the compact pursuant to this subdivision, that state shall make arrangements for the disposal of the other party states' low-level radioactive waste for a time period equal *to* the period of time it was a member of this compact.

If the host state withdraws from the compact, the withdrawal shall not become effective until five years after the effective date of the repealing legislation.

(D) A party state may be excluded from this compact by a two-thirds vote of the commission members, acting in a meeting,

if the state to be excluded has failed to carry out any obligations required by compact.

(E) This compact shall take effect upon the enactment by statute by the legislatures of the State of California and at least one other eligible state and upon the consent of Congress and shall remain in effect until otherwise provided by federal law. This compact is subject to review by Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

Article 8. Construction and Severability

(A) The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not be infringed unnecessarily.

(B) This compact does not affect any judicial proceeding pending on the effective date of this compact.

(C) If any provision of this compact or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the compact that can be given effect without the invalid provision or application, and to this end the provisions of this compact are severable.

(D) Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) The Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.).

(2) An agreement state under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

(E) Nothing in this compact confers any new authority on the states or commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the Nuclear Regulatory Commission or the United States Department of Transportation.

(2) Regulate health, safety, or environmental hazards from source, byproduct, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the Nuclear Regulatory Commission.

SEC. 435. Section 116050 of the Health and Safety Code is amended to read:

116050. Except as provided in Section 18930, the department shall make and enforce regulations pertaining to public swimming pools as it deems ~~properand~~ *proper and* shall enforce building standards published in the State Building Standards Code relating to public swimming pools; provided, that no rule or regulation as to design or construction of pools shall apply to any pool that has been constructed before the adoption of the regulation, if the pool as constructed is reasonably safe and the manner of the construction does not preclude compliance with the requirements of the regulations as to bacteriological and chemical quality and clarity of the water in the pool. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 ~~of this code~~ for the purposes described in this section.

SEC. 436. Section 116660 of the Health and Safety Code is amended to read:

116660. (a) Any person who operates a public water system without having an unrevoked permit to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department.

(b) When the department determines that any person has engaged in or is engaged in any act or practice that constitutes a violation of this chapter, or any regulation, permit, standard, or order issued or adopted thereunder, the department may bring an action in the superior court for an order enjoining the practices or for an order directing compliance.

(c) Upon a showing by the department of any violation set forth in ~~subsection (b);~~ *subdivision (b),* the superior court shall enjoin the practices and may do any of the following:

(1) Enforce a reasonable plan of compliance, including the appointment of a competent person, to be approved by the department, and paid by the operator of the public water system, who shall take charge of and operate the system so as to secure compliance.

(2) Enjoin further service connections to the public water system.

(3) Afford any further relief that may be required to insure compliance with this chapter.

SEC. 437. Section 117100 of the Health and Safety Code is amended to read:

117100. The ballot for the election authorized by Section 117090 shall contain the instructions required by law to be printed thereon and in addition thereto the following:

Shall the (insert name of governmental agency) allow fishing in the (name of body of water) and other recreational uses in the surrounding area subject to the regulations of the State ~~Deparment~~ *Department* of Health Services?	YES NO	

If the governmental agency concludes that a bond issue is required to pay for the capital improvements included in the coordinated plan as approved by the amended permit, there shall also be printed on the ballot, immediately following the ballot proposition aforesaid, the following proposition to be voted on by the constituents of the governmental agency:

Shall the (insert name of governmental agency) incur a bonded indebtedness in the principal amount of $____ for providing the capital improvements for fishing in the (name of body of water) and other recreational uses in the surrounding land area, subject to the regulations of the State Department of Health Services?	YES NO	

SEC. 438. Section 120425 of the Health and Safety Code is amended to read:

120425. All moneys appropriated to the department for the purposes of this section and Section 120420 shall be made available to local health departments, as defined in Section 101185, or to areawide associations of local health departments. All moneys received by the local departments or areawide associations shall be utilized only for the purchase of rubella

vaccines, other necessary supplies and equipment for rubella immunization campaigns, and promotional costs of ~~such~~ *these* campaigns. No moneys appropriated for the purpose of this section and Section 120420 shall be used by the department or by any local department or areawide association for administrative purposes, and ~~no such~~ *these* moneys may *not* be used to supplant or support local health department clinics and programs already regularly operated by ~~such~~ the departments, but may be used only for additional county or areawide rubella immunization campaigns. All moneys appropriated for the purposes of this section and Section 120420 shall be expended by March 31, 1971.

SEC. 439. Section 120830 of the Health and Safety Code is amended to read:

120830. *(a)* Pilot projects to demonstrate the cost effectiveness of home health, attendant, or hospice care shall be initiated through a block grant program, as described in this section.

~~(a)~~

(b) The state director shall designate the contractors and the amounts that contractors will receive for the block grant direct service demonstration projects.

~~(b)~~

(c) An amount of not more than 10 percent of the grant may be retained by contractors for administrative overhead. Contractors accepting block grant funds shall compile comparative cost data reports for transmission to the department and the Legislature. Reports shall be made semiannually until the conclusion of the project.

~~(c)~~

(d) Contractors receiving direct service block grants shall:

(1) Encourage broad-based community involvement and support for AIDS programs and involve charitable, other nonprofit, and other agencies as well as health care professionals as providers of essential services.

(2) Ensure the proposed services are not duplicated in the community and are based on the needs of people with AIDS~~,~~ *or* AIDS-related conditions, at-risk communities, their families, or others affected by AIDS.

(3) Make maximum use of other federal, state, and local funds and programs.

(4) Provide services that are culturally and linguistically appropriate to the population served.

~~(c)~~

(e) Counties with existing programs of demonstrated effectiveness in AIDS education or services shall receive equal consideration with other applicants and shall not be penalized when awarding funds pursuant to this chapter with respect to the proposed expansion of their programs.

~~(d)~~

(f) Contractors shall develop a comprehensive service system including, but not limited to, the following essential services, that can be provided either directly by the contractors or indirectly through a referral network arranged by the contractor:

(1) Provision for hospice, skilled nursing facility, home health care, and homemaker chore services.

(2) Individual consultation and health planning and assessment.

(3) Information for people with AIDS or AIDS-related conditions regarding death and dying.

(4) Evaluation and referral services for medical care.

(5) Referral services for mental health services, as appropriate.

(6) Assistance in applying for financial aid or social services that are available and for which clients qualify.

The system of essential services developed by a contractor shall offer maximum opportunity for involvement of family, friends, *and* domestic partners and of nonprofit and charitable organizations in preventing the severe, adverse health and social consequences that result from being diagnosed with AIDS or AIDS-related conditions.

~~(e)~~

(g) The direct service program for provision of essential services shall ensure *both of the following*:

(1) An ongoing quality assurance program.

(2) Confidentiality assurances and methods for developing interagency confidentiality agreements.

SEC. 440. Section 120875 of the Health and Safety Code is amended to read:

120875. The State Department of Education shall provide information to school districts on acquired immune deficiency syndrome (AIDS), on AIDS-related conditions, and on Hepatitis B. This information shall include, but not be limited to, any appropriate methods school employees may employ to prevent exposure to AIDS and Hepatitis B, including information concerning the availability of a vaccine to prevent contraction of Hepatitis B, and that the cost of vaccination may be covered by the health plan benefits of the employees. This information shall be compiled and updated annually, or if there is new information, more frequently, by the State Department of Education in conjunction with the department ~~department~~ and in consultation with the California Conference of Local Health Officers. In order to reduce costs, this information may be included as an insert with other regular mailings to the extent practicable, and the information required to be provided on Hepatitis B shall be provided in conjunction with the information required to be provided on AIDS.

SEC. 441. Section 121110 of the Health and Safety Code is amended to read:

121110. (a) Any person who willfully or maliciously discloses the content of any confidential research record, to any third party, except pursuant to this chapter, shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b) Any person who maliciously discloses the content of any confidential research record, to a third party, except pursuant to this chapter, that results in economic, bodily, or psychological harm to the research subject, is guilty of a misdemeanor, punishable by imprisonment in ~~the~~ *a* county jail for a period not to exceed one year ~~or~~, a fine of not to exceed ten thousand dollars ($10,000), or both *that imprisonment and fine*.

(c) Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.

(d) Any person who negligently or willfully violates Section 121105 is guilty of an infraction punishable by a fine of twenty-five dollars ($25).

(e) Each violation ~~f~~ *of* this chapter is a separate and actionable offense.

(f) Nothing in this section limits or expands the right of an injured research subject to recover damages under any other applicable law.

SEC. 442. Section 121270 of the Health and Safety Code is amended to read:

121270. (a) There is hereby created the AIDS Vaccine Victims Compensation Fund.

(b) For the purposes of this section, *the following definitions apply*:

(1) "AIDS vaccine" means a vaccine that (A) has been developed by any manufacturer and (B) is approved by the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 as a safe and efficacious vaccine for the purpose of immunizing against AIDS.

(2) "Board" means the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

(3) "Damages for personal ~~injuries,"~~ *injuries"* means the direct medical costs for the care and treatment of injuries to any person, including a person entitled to recover damages under Section 377 of the Code of Civil Procedure, proximately caused by an AIDS vaccine, the loss of earnings caused by the injuries, and the amount necessary, but not to exceed five hundred fifty thousand dollars ($550,000), to compensate for noneconomic losses, including pain and suffering caused by the injuries.

(4) "Fund" means the AIDS Vaccine Victims Compensation Fund.

(c) The board shall pay from the fund, contingent entirely upon the availability of moneys as provided in subdivision (o), damages for personal injuries caused by an AIDS vaccine that is sold in or delivered in California, and administered or dispersed in California to the injured person except that no payment shall be made for any of the following:

(1) Damages for personal injuries caused by the vaccine to the extent that they are attributable to the comparative negligence of the person making the claim.

(2) Damages for personal injuries in any instance when the manufacturer has been found to be liable for the injuries in a court of law.

(3) Damages for personal injuries due to a vaccination administered during a clinical trial.

(d) An application for payment of damages for personal injuries shall be made on a form prescribed by the board~~, that application may be required to be verified,~~ within one year of the date that the injury and its cause are discovered. *This application may be required to be verified.* Upon receipt, the board may require the submission of additional information necessary to evaluate the claim.

(e) (1) Within 45 days of the receipt of the application and the submission of any additional information, the board shall do either of the following:

(A) Allow the claim in whole or part.

(B) Disallow the claim.

(2) In those instances of unusual hardship to the victim, the board may grant an emergency award to the injured person to cover immediate needs upon agreement by the injured person to repay in the event of a final determination denying the claim.

(3) If the claim is denied in whole or part, the victim may apply within 60 days of denial for a hearing. The hearing shall be held within 60 days of the request for a hearing unless the injured person requests a later hearing.

(f) At the hearing, the injured person may be represented by counsel and may present relevant evidence as defined in subdivision (c) of Section 11513 of the Government Code. The board may consider additional evidence presented by its staff. If the injured person declines to appear at the hearing, the board may act solely upon the application, the staff report, and other evidence that appears on the record.

(g) The board may delegate the hearing of applications to hearing examiners.

(h) The decision of the board shall be in writing and shall be delivered or mailed to the injured person within 30 days of the hearing. Upon the request by the applicant within 30 days of delivery or mailing, the board may reconsider its decision.

(i) Judicial review of a decision shall be under Section 1094.5 of the Code of Civil Procedure, and the court shall exercise its

independent judgment. A petition for review shall be filed as follows:

(1) If no request for reconsideration is made, within 30 days of personal delivery or mailing of the board's decision on the application.

(2) If a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or mailing of the notice of rejection.

(3) If a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or mailing of the final decision on the reconsidered application.

(j) The board shall adopt regulations to implement this section, including those governing discovery.

(k) The fund is subrogated to any right or claim that any injured person may have who receives compensation pursuant to this section, or any right or claim that the person's personal representative, legal guardian, estate, or survivor may have, against any third party who is liable for the personal injuries caused by the AIDS vaccine, and the fund shall be entitled to indemnity from that third party. The fund shall also be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured person.

(*l*) In the event that the injured person, or his or her guardian, personal representative, estate, or survivors, or any of them, bring an action for damages against the person or persons liable for the injury or death giving rise to an award by the board under this section, notice of institution of legal proceedings and notice of any settlement shall be given to the board in Sacramento except in cases where the board specifies that notice shall be given to the Attorney General. All notices shall be given by the attorney employed to bring the action for damages or by the injured person, or his or her guardian, personal representative, estate, or survivors, if no attorney is employed.

(m) This section is not intended to affect the right of any individual to pursue claims against the fund and lawsuits against manufacturers concurrently, except that the fund shall be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured party by the fund.

(n) There is hereby created the AIDS Vaccine Injury Compensation Policy Review Task Force consisting of 14 members. The task force shall be composed of 10 members appointed by the Governor, of which two shall be from a list provided by the California Trial Lawyers Association, one from the department, the Director of Finance, one unspecified member, and one attorney with experience and expertise in products liability and negligence defense work, two representing recognized groups that represent victims of vaccine induced injuries or AIDS victims, or both, and two representing manufacturers actively engaged in developing an AIDS vaccine. In addition four Members of the Legislature or their designees shall be appointed to the task force, two of which shall be appointed by the Speaker of the Assembly and two of which shall be appointed by the Senate ~~Rules~~ Committee *on Rules*. The chairperson of the task force shall be appointed by the Governor from the membership of the task force. The task force shall study and make recommendations on the legislative implementation of the fund created by subdivision (a). These recommendations shall at least address the following issues:

(1) The process by which victims are to be compensated through the fund.

(2) The procedures by which the fund will operate and the governance of the fund.

(3) The method by which manufacturers are to pay into the fund and the amount of that payment.

(4) The procedural relationship between a potential victim's claim through the fund and a court claim made against the manufacturer.

(5) Other issues deemed appropriate by the task force.

The task force shall make its recommendations to the Legislature on or before June 30, 1987.

(o) The fund shall be funded wholly by a surcharge on the sale of an AIDS vaccine, that has been approved by the FDA, or by the department pursuant to Part 5 (commencing with Section 109875) of Division 104, in California in an amount to be determined by the department. The surcharge shall be levied on the sale of each unit of the vaccine sold or delivered, administered, or dispensed in California. The appropriate amount of the surcharge shall be studied by the AIDS Vaccine Injury

Compensation Policy Review Task Force, which shall recommend the appropriate amount as part of its report, with the amount of the surcharge not to exceed ten dollars ($10) per unit of vaccine. Expenditures of the task force shall be made at the discretion of the Director of Finance or the director's designee.

(p) For purposes of this section, claims against the fund are contingent upon the existing resources of the fund as provided in subdivision (o), and in no case shall the state be liable for any claims in excess of the resources in the fund.

SEC. 443. Section 121275 of the Health and Safety Code is amended to read:

121275. (a) Because the development of a vaccine now costs somewhere between twenty million dollars ($20,000,000) and forty million dollars ($40,000,000), and because the last vaccine produced and marketed did not sell well, vaccine manufacturers are hesitant to proceed to invest their resources in a risky venture. It is, therefore, in the public health interest of California to assure that manufacturers proceed to develop this vaccine and protect Californians against this dread disease and protect the State of California against the enormous fiscal costs of treatment for persons getting AIDS. It is a sound and worthwhile investment to provide a guarantee of a market to lessen the risk of loss and assure the development of an AIDS vaccine.

It is anticipated that this AIDS vaccine will consist of a three-unit series. The State of California is willing to guarantee that at least 175,000 persons will be vaccinated, and to guarantee the purchase, within three years after the FDA or the department pursuant to Part ~~5(commencing~~ *5 (commencing* with Section 109875) of Division 104 approves marketing of an AIDS vaccine, of at least 500,000 units, at a cost of no more than twenty dollars ($20) per dosage, by all companies, anywhere in the United States.

Therefore, the State of California, by moneys to be appropriated later through the Budget Act, commits itself to purchasing, at the end of three years after the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 has approved the marketing on a competitive basis, at not more than twenty dollars ($20) per dosage, the difference between 500,000 units and the actual amount sold, delivered, administered, or dispensed by all

companies throughout the United States, including units sold to or reimbursed by Medi-Cal, Medicare, or other public programs, providing that ~~less~~ *fewer* than 500,000 units are sold, delivered, administered, or dispensed.

(b) The AIDS Vaccine Guaranteed Purchase Fund is hereby established and shall be administered by the department, ~~that~~ *which* may develop necessary regulations to carry out the purpose of this section.

(c) The department may carry out this section, when those funds are appropriated through the State Budget. In determining which vaccine shall be purchased by the state from among those manufacturers selling or distributing in California, an AIDS vaccine approved by the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104, the department shall take into consideration at least all of the following factors:

(1) The length of time each AIDS vaccine has been in the marketplace in California.

(2) Each AIDS vaccine's history of efficacy since approval by the FDA or the department.

(3) Each AIDS vaccine's history of side effects experienced by previous recipients of the vaccine.

(4) The relative cost of each competing manufacturer's AIDS vaccine.

SEC. 444. Section 121520 of the Health and Safety Code is amended to read:

121520. The department, in consultation with the *State* Department of Education, shall adopt and enforce all *rules* and regulations necessary to carry out this chapter.

SEC. 445. Section 122070 of the Health and Safety Code is amended to read:

122070. *(a)* If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a dog following the sale by a breeder, the dog has become ill due to any illness or disease that existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by a breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition ~~which~~ that adversely affects the health of the dog, or ~~which~~ that

requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies that the purchaser elects:

(1) Return the dog to the breeder for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.

(2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(3) Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.

(b) If the dog has died, regardless of the date of death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a breeder.

SEC. 446. Section 127575 of the Health and Safety Code is amended to read:

127575. For purposes of this chapter, the following definitions shall apply:

(a) "Carrier" means any of the following:

(1) Any insurer, including, but not limited to, disability insurers, nonprofit hospital service plans, fraternal benefit societies, and firemen's, policemen's, or peace officers' benefit and relief associations.

(2) A health care service plan other than a specialized health care service plan.

(3) A self-funded employer sponsored plan, multiple employer trust, or Taft-Hartley Trust as defined by federal law, authorized to pay for health care services in this state.

(4) The State Compensation Insurance Fund.

(5) The health insurance offered to certain employees of this state by the Public Employees' Retirement System known as ~~"PERS" Care.~~ "*PERS Care.*"

(b) "Department" means the State Department of Health Services.

(c) "Office" means the Office of Statewide Health Planning and Development.

(d) "Professional health care services" means any diagnostic or treatment services provided in California directly to a patient by a person licensed or practicing pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code who is eligible to directly bill for their services. "Professional health care services" does not include services provided by a person licensed pursuant to a chapter of Division 2 that the director of the office has determined, pursuant to Section 127590, should be exempted.

(e) "Institutional provider services" means any services, equipment, and supplies, other than professional health care services that are provided by an institution, site, or facility through ~~that~~ *which* professional health care services are provided. "Institutional provider services" includes any component of an episode of health care for which there will be charges, other than professional health care services. "Institutional provider services" does not include diagnostic or treatment services that would be considered "professional health care services" but for the fact that the provider is licensed under a chapter of Division 2 of the Business and Professions Code that the director of the office has exempted pursuant to Section 127590.

(f) "California uniform billing form for professional health care services" and "California uniform billing form for

institutional provider services" means billing forms in the formats developed by the office pursuant to Section 127580.

SEC. 447. Section 129890 of the Health and Safety Code is amended to read:

129890. (a) Notwithstanding any other provision of law, the office shall, on or before January 1, 1991, set forth and implement criteria for the alteration or construction of buildings specified in subdivision (a) of Section 129725 that provide for onsite field review and approval by construction ~~advisors~~ *advisers* of the office and provide for preapproval of project plans that comply with the requirements for which the office has developed standard architectural or engineering detail, or both standard architectural and engineering detail.

(b) ~~On site~~ *Onsite* field reviews shall be performed by available area construction ~~advisors~~ *advisers* of the office. The area construction ~~advisors~~ *advisers* shall have the responsibility to coordinate any approvals required by the State Fire Marshal. The approvals may be obtained prior to the start of construction or on a deferred basis, at the discretion of the area construction ~~advisor~~ *adviser*.

(c) An annual building permit project classified as a "field review" shall be reviewed and approved by the area construction ~~advisor~~ *adviser*.

(d) Effective January 1, 1991, all plans submitted for the alteration or construction of buildings specified in subdivision (a) of Section 129725 to the office for plan review shall be evaluated to determine if it is exempt from the plan review process or if it qualifies for an expedited plan review. The evaluation shall give priority to plans that are for minor renovation, remodeling, or installation of equipment.

SEC. 448. Section 150204 of the Health and Safety Code is amended to read:

150204. (a) A county may establish, by ordinance, a repository and distribution program for purposes of this division. Only pharmacies that are county-owned or that contract with the county pursuant to this division may participate in this program to dispense medication donated to the drug repository and distribution program.

(b) A county that elects to establish a repository and distribution program pursuant to this division shall establish procedures for, at a minimum, all of the following:

(1) Establishing eligibility for medically indigent patients who may participate in the program.

(2) Ensuring that patients eligible for the program shall not be charged for any medications provided under the program.

(3) Developing a formulary of medications appropriate for the repository and distribution program.

(4) Ensuring proper safety and management of any medications collected by and maintained under the authority of a county-owned or county-contracted, licensed pharmacy.

(5) Ensuring the privacy of individuals for whom the medication was originally prescribed.

(c) Any medication donated to the repository and distribution program shall comply with the requirements specified in this division. Medication donated to the repository and distribution program shall meet all of the following criteria:

(1) The medication shall not be a controlled substance.

(2) The medication shall not have been adulterated, misbranded, or stored under conditions contrary to standards set by the United States Pharmacopoeia (USP) or the product manufacturer.

(3) The medication shall not have been in the possession of a patient or any individual member of the public, and in the case of medications donated by a skilled nursing facility, shall have been under the control of staff of the skilled nursing facility.

(d) Only medication that is donated in unopened, tamper-evident packaging or modified unit dose containers that meet USP standards is eligible for donation to the repository and distribution program, provided lot numbers and expiration dates are affixed. Medication donated in opened containers shall not be dispensed by the repository and distribution program.

(e) A pharmacist shall use his or her professional judgment in determining whether donated medication meets the standards of this division before accepting or dispensing any medication under the repository and distribution program.

(f) A pharmacist shall adhere to standard pharmacy practices, as required by state and federal law, when dispensing all medications.

(g) Medication that is donated to the repository and distribution program shall be handled in any of the following ways:

(1) Dispensed to an eligible patient.

(2) Destroyed.

(3) Returned to a reverse distributor.

(h) Medication that is donated to the repository and distribution program that does not meet the requirements of this division shall not be distributed under this program and shall be either destroyed or returned to a reverse distributor. This medication shall not be sold, dispensed, or otherwise transferred to any other entity.

(i) Medication donated to the repository and distribution program shall be maintained in the donated packaging units until dispensed to an eligible patient under this program, who presents a valid prescription. When dispensed to an eligible patient under this program, the medication shall be in a new and properly labeled container, specific to the eligible patient and ensuring the privacy of the individuals for whom the medication was initially dispensed. Expired medication shall not be dispensed.

(j) Medication donated to the repository and distribution program shall be segregated from the pharmacy's other drug stock by physical means, for purposes including, but not limited to, inventory, accounting, and inspection.

(k) The pharmacy shall keep complete records of the acquisition and disposition of medication donated to and dispensed under the repository and distribution program. These records shall be kept separate from the pharmacy's other acquisition and disposition records and shall conform to the Pharmacy Law (Chapter 9 (commencing with Section 4000)~~,~~ of Division 2 of the Business and Professions Code), including being readily retrievable.

(*l*) Local and county protocols established pursuant to this ~~act~~ *division* shall conform to the Pharmacy Law regarding packaging, transporting, storing, and dispensing all medications.

(m) County protocols established for packaging, transporting, storing, and dispensing medications that require refrigeration, including, but not limited to, any biological product as defined in Section 351 of the Public Health and Service Act (42 U.S.C. Sec. 262), an intravenously injected drug, or an infused drug, include

specific procedures to ensure that these medications are packaged, transported, stored, and dispensed at their appropriate temperatures and in accordance with USP standards and the Pharmacy Law.

(n) Notwithstanding any other provision of law, a participating county-owned or county-contracted pharmacy shall follow the same procedural drug pedigree requirements for donated drugs as it would follow for drugs purchased from a wholesaler or directly from a drug manufacturer.

SEC. 449. Section 134 of the Insurance Code is amended to read:

134. (a) A purchasing group that intends to do business in this state shall, prior to doing business, furnish ~~notice~~ to the commissioner *notice,* which ~~does~~ *shall do* the following:

(1) Identify the state in which the group is domiciled.

(2) Specify the lines and classifications of liability insurance ~~which~~ *that* the purchasing group intends to purchase.

(3) Identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of that company.

(4) Specify the method by which, and the person or persons, if any, through whom, insurance will be offered to its members whose risks are resident or located in this state.

(5) Identify the principal place of business of the group.

(6) Provide other information that may be required by the commissioner to verify that the purchasing group is qualified under subdivision (i) of Section 130.

(b) The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process, for which a filing fee in the amount of three hundred dollars ($300) shall be submitted to the commissioner for deposit in the Risk Retention Administration Account within the Insurance Fund, except that these requirements do not apply in the case of a purchasing group that did all of the following:

(1) Was domiciled before April 1, 1986, and is domiciled on and after October 27, 1986, in any state of the United States.

(2) Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state, and since October 27,

1986, purchased its insurance from an insurance carrier licensed in any state.

(3) Was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 *(15 U.S.C. Sec. 3901 et seq.)* before October 27, 1986.

(4) Does not purchase insurance that was not authorized for purposes of an exemption under that act, as in effect before October 27, 1986.

(c) Any purchasing group ~~which~~ *that* was doing business in this state prior to the enactment of this chapter shall, within 30 days after January 1, 1990, furnish notice to the commissioner pursuant to subdivision (a) and furnish information that may be required pursuant to subdivisions (b) and (c).

(d) Each purchasing group ~~which~~ *that* is required to give notice pursuant to subdivision (a) shall also furnish information ~~as~~ *that* may be required by the commissioner to:

(1) Verify that the entity qualifies as a purchasing group.

(2) Determine where the purchasing group is located.

(3) Determine appropriate tax treatment.

(4) Verify that the purchasing group is in compliance with ~~the requirements of~~ this chapter.

(e) Any purchasing group that intends to do business in this state shall make its initial registration by submitting to the commissioner the materials listed in subdivision (a). The registration is valid until December 31 of the year in which it was made, as long as the purchasing group is in compliance with this chapter. To maintain the registration, the purchasing group shall continue to comply with ~~the provisions of~~ this chapter. Additionally, the purchasing group shall file the following documents with the commissioner on or before January 31 of each year:

(1) An annual reporting statement on a form prescribed by the commissioner.

(2) An annual renewal fee, to be determined by the commissioner, limited to the actual cost of administering this section, not to exceed two hundred dollars ($200).

(3) Any other information required by the commissioner to determine whether the purchasing group is in compliance with ~~the requirements of~~ this chapter or other applicable provisions of this code.

(f) The purchasing group shall notify the commissioner in writing of any changes in the information provided according to subdivision (a) within 30 days of the effective date of the change.

SEC. 450. Section 481.5 of the Insurance Code is amended to read:

481.5. (a) Whenever a policy of personal lines insurance terminates for any reason, or there is a reduction in coverage, the insurer shall tender the gross unearned premium resulting from the termination, or the amount of the unearned premium generated by the reduction in coverage, ~~resulting from the termination, or the amount of the unearned premium generated by the reduction in coverage,~~ to the insured or, pursuant to Section 673, to the insured's premium finance company. The gross unearned premium shall be tendered within 25 business days after the insurer either receives notice of the event that generated the gross unearned premium, or receives notice from a premium finance company of a cancellation.

(b) (1) Whenever a policy other than a policy of personal lines insurance terminates for any reason, or there is a reduction in coverage, the gross unearned premium shall be tendered to the insured or, pursuant to Section 673, to the insured's premium finance company. If the policy is not auditable, the gross unearned premium shall be tendered within 80 business days after the insurer either receives notice of the event that generated the gross unearned premium, or receives notice from a premium finance company of a cancellation. If the policy is auditable, the gross unearned premium shall be tendered within 80 business days after the insured provides all requested audit information to the insurer or the insurer's designee.

(2) Notwithstanding paragraph (1), an insurer shall not be required to tender the unearned premium within 80 business days if the final unearned premium amount cannot be determined due to the insured's failure, in breach of a policy requirement, to cooperate with the insurer in a premium audit, or if the amount of the unearned premium determined by a premium audit remains in dispute.

(c) An insurer may tender gross or net unearned premium to an agent or broker, or net unearned premium to a finance company, but shall remain liable to the insured or finance company for payment of any portion of the gross unearned

premium that the agent or broker fails to remit to the insured or premium finance company.

(d) Any unearned premium that an insurer fails to tender within the time periods specified in subdivisions (a) and (b) shall bear interest at the rate of 10 percent per annum from and after the date on which the unearned premium was required to be tendered. For the purposes of this section, the tender of any unearned premium to the insured or premium finance company shall be deemed complete upon the deposit of the unearned premium in the United States mail, prepaid, addressed to the named insured or premium finance company at the last known address, or to an agent or broker with an assignment pursuant to paragraph (1) of subdivision (g).

(e) For the purpose of this section, the following definitions apply:

(1) "Gross unearned premium" means the unearned portion of the full amount of the premium charged to the insured, including the unearned portion of any amount of the premium the insurer allocated to an agent or broker as commission.

(2) "Net unearned premium" means the gross unearned premium minus the unearned commission.

(3) "Policy of personal lines insurance" means an insurance policy that is designed for and bought by individuals, and includes, but is not limited to, homeowners' and automobile policies.

(f) The interest penalty required by this section shall not apply to any insurer in conservatorship or liquidation, nor shall ~~such an~~ *this* insurer be subject to any other penalty for failure to remit unearned premium in accordance with the time periods required by this section.

(g) (1) An assignment by an insured to an agent or broker of the insured's right to receive unearned premium shall be valid only for the purpose set forth in Section 1735.5.

(2) If the insured notifies the insurer, 25 or more days after the insurer's tender of unearned premium to an agent or broker with an assignment pursuant to paragraph (1), that the agent or broker has failed to issue to the insured an accounting of an offset permitted by Section 1735.5, the insurer shall, within an additional 15 days, either tender the unearned premium directly

to the insured or provide the insured with the agent's or broker's accounting of the offset permitted by Section 1735.5.

(3) Whenever an insurer tenders the net rather than gross unearned premium to an agent or broker or premium finance company, the insurer shall contemporaneously notify the agent or broker of the amount of the unearned commission.

(4) If an insurer elects to tender the net rather than the gross unearned premium to a premium finance company, the insurer shall document that the agent or broker tendered unearned commission to the premium finance company within the period required under subdivision (a) or (b) after the insurer either receives notice of the event that generated the unearned premium, or receives notice from a premium finance company of a cancellation.

(h) Whenever an agent or broker receives a refund from a premium finance company, the agent or broker shall tender that money to the insured within 25 days. Whenever an agent or broker with an assignment from the insured receives unearned premium from an insurer, the agent or broker shall account to the insured for any offset permitted by Section 1735.5 within 25 days. If the agent or broker fails to tender payment of any remaining unearned premium after the offset within 25 days, the agent or broker shall pay the insured interest at the rate of 10 percent per annum from and after the 26th day after the agent or broker receives the refund.

(i) In addition to the required unearned premium refund, an insurer shall provide both the insured and the agent or broker, upon the request of either, with an accounting and explanation of how the amount of the refund was calculated. The explanation shall be clear, concise, and easy to comprehend. The commissioner may adopt regulations setting forth standards to govern this subdivision.

(j) For purposes of subdivisions (a) to (c), inclusive, if the unearned premium is not assigned as security to a premium finance agency pursuant to a premium finance agreement and the amount of unearned premium is less than twenty-five dollars ($25), tender of unearned premium shall include applying the amount of unearned premium either to the renewal premium at the next renewal date or to other premiums due, provided written notice of either application is given to the insured within 30 days

after the endorsement, rejection, declination, cancellation, or surrender of a policy of insurance. At the time of endorsement or surrender of a policy of insurance or, within 15 days after the mailing of the written notice required by this subdivision, the insured may request in writing that the unearned premium be tendered as provided in subdivisions (a) to (c), inclusive. Whenever the amount of unearned premium is less than five dollars ($5), tender shall be effective and the written notice required by this subdivision shall not be required if the unearned premium is applied either to the renewal premium at the next renewal date or to other premiums due.

(k) Notwithstanding subdivisions (a) to (c), inclusive, an insurer may at any time solicit the insured's consent, or may in its policy reserve the right, to apply the unearned premium generated by an amendment or endorsement removing or reducing coverage for an insured person or property to the balance owed on the policy as a whole, rather than tendering a refund of the unearned premium. This subdivision shall not apply if the unearned premium is assigned as security to a premium finance company.

(*l*) The amount of unearned premium required to be refunded by an insurer pursuant to this section shall not exceed the amount paid to the insurer by the insured or by a premium finance company.

SEC. 451. Section 676.2 of the Insurance Code is amended to read:

676.2. (a) This section applies only to policies of commercial insurance ~~which~~ *that* are subject to Section 675.5.

(b) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it complies with Section 677.2 and it is based on the occurrence, after the effective date of the policy, of one or more of the following:

(1) Nonpayment of premium, including payment due on a prior policy issued by the insurer and due during the current policy term covering the same risks.

(2) A judgment by a court or an administrative tribunal that the named insured has violated any law of this state or of the United States having as one of its necessary elements an act ~~which~~ *that* materially increases any of the risks insured against.

(3) Discovery of fraud or material misrepresentation by either of the following:

(A) The insured or his or her representative in obtaining the insurance.

(B) The named insured or his or her representative in pursuing a claim under the policy.

(4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by the named insured or his or her representative, which materially increase any of the risks insured against.

(5) Failure by the named insured or his or her representative to implement reasonable loss control requirements ~~which~~ *that* were agreed to by the insured as a condition of policy issuance or ~~which~~ *that* were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

(6) A determination by the commissioner that the loss of, or changes in, an insurer's reinsurance covering all or part of the risk would threaten the financial integrity or solvency of the insurer. A certification made under penalty of perjury to the commissioner by an officer of the insurer of the loss of, or change in, reinsurance and that the loss or change will threaten the financial integrity or solvency of the insurer if the cancellation of the policy is not permitted shall constitute ~~such a~~ *this* determination unless disapproved by the commissioner within 30 days of the filing. There shall be no extensions to this 30-day period.

(7) A determination by the commissioner that a continuation of the policy coverage would place the insurer in violation of the laws of this state or the state of its domicile or that the continuation of coverage would threaten the solvency of the insurer.

(8) A change by the named insured or his or her representative in the activities or property of the commercial or industrial enterprise ~~which~~ *that* results in a material added risk, a materially increased risk, or a materially changed risk, unless the added, increased, or changed risk is included in the policy.

(c) *(1)* After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately upon renewal,

no increase in the rate upon which the premium is based, reduction in limits, or change in the conditions of coverage shall be effective during the policy period unless a written notice is mailed or delivered to the named insured and the producer of record at the mailing address shown on the policy, at least 30 days prior to the effective date of the increase, reduction, or change. Subdivision (a) of Section 1013 of the Code of Civil Procedure is applicable if the notice is mailed. The notice shall state the effective date of, and the reasons for, the increase, reduction, or change.

~~That~~

(2) The increase, reduction, or change shall not be effective unless *it is* based upon one of the following reasons:

~~(1)~~

(A) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards by the named insured ~~which~~ *that* materially increase any of the risks or hazards insured against.

~~(2)~~

(B) Failure by the named insured to implement reasonable loss control requirements ~~which~~ *that* were agreed to by the insured as a condition of policy issuance or ~~which~~ *that* were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

~~(3)~~

(C) A determination by the commissioner that loss of or changes in an insurer's reinsurance covering all or part of the risk covered by the policy would threaten the financial integrity or solvency of the insurer unless the change in the terms or conditions or rate upon which the premium is based is permitted.

~~(4)~~

(D) A change by the named insured in the activities or property of the commercial or industrial enterprise ~~which~~ *that* results in a materially added risk, a materially increased risk, or a materially changed risk, unless the added, increased, or changed risk is included in the policy.

~~(5)~~

(E) With respect to a change in the rate of a policy of professional liability insurance for a health care provider, the

insurer's offer of renewal notifies the policyholder that the insurer has an application filed pursuant to Section 1861.05 pending with the commissioner for approval of a change in the rate upon which the premium is based, and the commissioner subsequently approves the rate change, or some different amount for the policy period. The change shall not be retroactive.

(d) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Title 2 of Division 3 of the Government Code) shall not apply to a determination pursuant to paragraph (6) or (7) of subdivision (b) or *subparagraph (C) of* paragraph ~~(3)~~ *(2)* of subdivision (c). The commissioner shall charge an insurer who requests a determination pursuant to paragraph (6) or (7) of subdivision (b) a fee sufficient to recover the costs of making the determination. If the commissioner does not act upon a request by ~~a~~ *an* insurer to cancel or change a policy pursuant to those provisions within 30 days, the request shall be deemed to be approved.

(e) This section shall not prohibit an insurer from increasing a premium during the policy period~~,~~ if the increase is calculated in accordance with the current rating manual of the insurer~~,~~ and is justified by a physical change in the insured property or by a change in the activities of the commercial or industrial enterprise ~~which~~ *that* materially increases any of the risks insured against.

(f) This section shall not apply to a transfer of a policy without a change in its terms or conditions or the rate upon which the premium is based between insurers ~~which~~ *that* are members of the same insurance group.

SEC. 452. Section 750.4 of the Insurance Code is amended to read:

750.4. Section 750 of the Insurance Code, Sections 3215 and 3219 of the Labor Code, ~~or~~ *and* Section 549 of the Penal Code shall not apply to any person, corporation, partnership, association, or firm, ~~which~~ *that is operating under* both of the following *circumstances*:

(a) ~~Operating on~~ *On* behalf of an insurer or self-insured person, company, association, or group.

(b) ~~Operating pursuant~~ *Pursuant* to, and within the scope of, a certificate of consent issued pursuant to Section 3702.1 of the Labor Code or pursuant to, and within the scope of, a license

issued pursuant to Article 3 (commencing with Section ~~14000)~~ *14020)* of Chapter 1 of Division 5.

SEC. 453. Section 1063.145 of the Insurance Code is amended to read:

1063.145. The statement of the amount of surcharge required to be provided under subdivision (b) of Section 1063.14 shall include a description of, and purpose for, the California Insurance Guarantee Association, as follows:

~~Companies~~

"*Companies* writing property and casualty insurance business in California are required to participate in the California Insurance Guarantee Association. If a company becomes insolvent the California Insurance Guarantee Association settles unpaid claims and assesses each insurance company for its fair share.

California law requires all companies to surcharge policies to recover these assessments. If your policy is surcharged, ~~"CA Surcharge"~~ *'CA Surcharge'* with an amount will be displayed on your premium notice."

SEC. 454. Section 1140.5 of the Insurance Code is amended to read:

1140.5. (a) Notwithstanding any other provision of law, a copy of every form of proxy or written consent or authorization for use at any meeting or proceeding of shareholders or stockholders of any domestic insurer to evidence authority to cast the vote of any shareholder or stockholder, or to record the consent or the authorization of any shareholder or stockholder to any action of the insurer, and a copy of every solicitation, announcement, or advertisement used to obtain, or to influence any shareholder or stockholder to sign, any proxy, or written consent or authorization shall be filed with the commissioner, accompanied by a filing fee of fifty-eight dollars ($58), by the person intending to use, issue, publish, or circulate ~~such~~ *the* document. ~~No such~~ *This* document shall *not* be used, issued, published, or circulated before a period of 10 days following the date of its filing, or any shorter period ~~as~~ *that* may be designated by the commissioner, has elapsed. Within ~~such~~ *the* 10-day or *a* shorter period, the commissioner may disapprove of any document filed with him *or her* pursuant to this section, stating

his *or her* reasons therefor in writing, in which case ~~such~~, *the* document shall not be used, issued, published, or circulated.

(b) Any person who fails to make the filing required by this section and who thereafter uses any document required to be filed, ~~or who~~ uses ~~any such~~ *the* document before it has been filed with the commissioner for the period required, or ~~who~~ uses ~~any such~~ *the* document after receiving written notice that the document has been disapproved by the commissioner is guilty of a misdemeanor. It shall be unlawful to use any proxy or consent obtained in violation of this section~~; and the~~. *The* superior court of the State of California in and for the county in which is located the principal place of business of ~~such~~ *the* insurer shall have jurisdiction to enforce ~~the provisions of~~ this section and the regulations promulgated pursuant ~~thereto~~ *to this section*, and to grant appropriate relief upon the verified petition of the commissioner, ~~such~~ *the* domestic insurer, or ~~and~~ any of its shareholders or stockholders.

(c) The purposes of this section are: to ensure that the shareholders, stockholders, or other persons entitled to vote or give written consents or authorizations are provided with adequate and accurate information regarding the affairs of the insurers in which they have interests, the interests of those soliciting proxies or written consents or authorizations and of those upon whose behalf ~~such~~ *the* solicitations are made, and the matters as to which proxies ~~or~~, written consents, or authorizations are solicited; and to prevent fraud or deception in connection with proxies, proxy statements, or other proxy solicitations. ~~In furtherance of the purposes of this section the~~ *The* commissioner may make rules and regulations ~~therefor~~ *in furtherance of the purposes of this section*. ~~Such~~ *These* rules and regulations may differ as to different classes and types of insurers.

(d) ~~The provisions of this~~ *This* section shall not apply to any domestic insurer having ~~less~~ *fewer* than 100 shareholders or stockholders and shall not apply to any domestic insurer if 95 percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares of stock are owned by ~~less~~ *fewer* than 500 shareholders or stockholders. Any domestic insurer ~~which~~ *that* files with the *federal* Securities and Exchange Commission forms of proxies, consents, and authorizations complying with the requirements of the *federal*

Securities Exchange Act of 1934 *(15 U.S.C. Sec. 782 et seq.)* and the amendments thereto and the applicable regulations thereunder, is exempt from ~~the provisions of~~ this section.

SEC. 455. Section 1734.5 of the Insurance Code is amended to read:

1734.5. (a) *(1)* If fiduciary funds, as defined in Section 1733, are received by any person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733, and the funds are not remitted, or maintained pursuant to subdivisions (a) and (b) of Section 1734, the funds shall be maintained ~~as follows: (1)~~ in ~~United~~ *any of the following:*

(A) United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States are pledged for payment of principal and interest~~; (2) in certificates~~.

(B) Certificates of deposit of banks or savings and loan associations licensed by any state government within the United States, or the United States government~~; (3) in repurchase~~.

(C) Repurchase agreements collateralized by securities issued by the United States government~~; or (4) in (A) bonds~~.

(D) Either of the following:

(i) Bonds and other obligations of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments upon all property within its boundaries subject to taxation or assessment by the local agency or district to pay the principal and interest of the obligations~~, and (B) revenue~~.

(ii) Revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by this state, or a local agency or district or by a department, board, agency, or authority thereof~~, the~~.

(2) The bonds and obligations described in ~~subparagraphs (A) and (B) to~~ *subparagraph (D) of paragraph (1) shall* either have maturities of not more than one year~~,~~ or afford the holder of the obligation the unilateral right to redeem the obligation from its issuer within one year from date of purchase at an amount equal to or greater than its par value, and the bonds and obligations shall be required to be rated at least Aa1, MIG-1/VMIG-1, or

Prime-1 by Moody's Investor Service, Inc., or AA, SP-1, or A-1 by Standard and Poor's Corporation.

(3) For the fiduciary funds maintained as provided in ~~paragraphs (1) to (4), inclusive~~ *paragraph (1)*, the bonds, certificates, obligations, certificates of deposit, and repurchase agreements shall be valued on the basis of their acquisition cost.

(b) As a condition to maintaining the fiduciary funds pursuant to this section, a written agreement shall be obtained from each and every insurer or person entitled thereto authorizing the maintenance and the retention of any earnings accruing on the funds.

(c) Evidence of the funds shall be maintained on California business by a bank, as defined in Section 102 of the Financial Code, or ~~by~~ a savings ~~and loan~~ association, as defined in Section ~~5057~~ *143* or ~~11000~~ *5102* of the Financial Code, in a custodian or trust account in California, separate from any other funds, in an amount at least equal to the premiums and return premiums, net of commissions received by him or her and unpaid to the persons entitled thereto, or, at their discretion or pursuant to a written contract, for the account of these persons. However, the ~~persons~~ *person* may commingle with the fiduciary funds any additional funds as he or she may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies ~~as~~ *that* may arise in his or her business of receiving and transmitting premium or return premium funds.

(d) The commissioner shall not have jurisdiction over any disputes arising between parties concerning the maintenance of fiduciary funds pursuant to this section. However, this subdivision shall not otherwise affect the authority granted to the commissioner over fiduciary funds by other provisions of this code, or regulations adopted pursuant thereto. As used in this subdivision, ~~the term~~ "parties" shall not include the commissioner.

(e) Investment losses to the principal of fiduciary funds maintained pursuant to this section are the responsibility of the person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733, and any obligation to insurers or other persons entitled to the fiduciary

funds shall in no way be diminished due to any loss in the value to the principal of the fiduciary funds held pursuant to this section.

SEC. 456. Section 1735 of the Insurance Code is amended to read:

1735. *(a)* As used in this section, a managing general agent is a licensed fire and casualty broker-agent or a life agent ~~who,~~ ~~(a) has~~ *to whom all of the following apply:*

(1) Has a written management contract and an appointment on file with the commissioner in accordance with Section 1704, which appointment is then in force, with one or more admitted insurers covering business transacted by the insurer in a substantial portion of the State of California~~; (b) under~~.

(2) Under the contract *specified in paragraph (1)*, manages the transaction of either all or one or more of the classes of insurance written by those insurers in that territory or the transactions therein by those insurers under a specified fictitious underwriter's name~~; (c) has~~.

(3) Has the power to appoint, supervise, and terminate the appointment of local agents in that territory~~; (d) has~~.

(4) Has the power to accept or decline risks~~; and (f) collects~~.

(5) Collects premium moneys from producing broker-agents and remits those moneys to those insurers pursuant to the account current system.

~~Any such~~

(b) The managing general agent shall, with respect to any principals for whom fiduciary funds are held, comply with Section 1734.

SEC. 457. Section 1763.2 of the Insurance Code is amended to read:

1763.2. *(a)* A licensed surplus line broker may originate surplus lines business, or may accept that business from any other originating licensee duly licensed for the type or types of insurance involved, and may compensate those licensees therefor.

(b) For any information involved in any insurance transaction described in subdivision (a), or involved in the eligibility of the risk for placement with a surplus line broker, the originating licensee shall use due care and diligence in the collection,

preparation, and transmission of the information to the surplus line broker.

SEC. 458. Section 1781.7 of the Insurance Code is amended to read:

1781.7. Transactions between a reinsurance intermediary-manager and the reinsurer it represents in that capacity shall only be entered into pursuant to a written contract specifying the responsibilities of each party ~~and~~, which shall be approved by the reinsurers's board of directors. Before a reinsurer assumes or cedes business through such a producer, a true copy of the approved contract shall be filed with the commissioner. The contract shall, at a minimum, contain provisions setting forth the following terms and conditions:

(a) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

(b) The reinsurance intermediary-manager shall, not less than quarterly, render calendar-year-basis and underwriting-year-basis accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the reinsurance intermediary-manager, and shall remit all funds due under the contract to the reinsurer on not less than a quarterly basis.

(c) All funds collected for the reinsurer’s account shall be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank the accounts of which are insured by an agency or instrumentality of the United States. The reinsurance intermediary-manager may retain no more than three months’ estimated claims payment and allocated loss adjustment expenses. Unless the funds held for each reinsurer by the reinsurance intermediary-manager in the fiduciary account are reasonably and readily ascertainable from its books of account and records, and the bank’s books of account and records, the reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that it represents. Notwithstanding the foregoing, the reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that it represents ~~which~~

that is in receivership or liquidation or ~~which~~ *that* the commissioner determines to be in an impaired financial condition.

(d) For at least 10 years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-manager, the reinsurance intermediary-manager shall keep a complete record for each transaction showing all of the following:

(1) The type of contract, limits, underwriting restrictions, classes or risks, and territory.

(2) The period of coverage, including effective and expiration dates, cancellation provisions and notice required for cancellation, and disposition of outstanding reserves on covered risks.

(3) The reporting and settlement requirements with respect to balances.

(4) The rate used to compute the reinsurance premium.

(5) The names and addresses of reinsurers.

(6) The rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-manager.

(7) Related correspondence and memoranda.

(8) Proof of placement.

(9) Details regarding retrocessions handled by the reinsurance intermediary-manager, as permitted by subdivision (d) of Section 1781.9, including the identity of retrocessionaires and the percentage of each contract assumed or ceded.

(10) Financial records, including, but not limited to, premium and loss accounts.

(11) If the reinsurance intermediary-manager places a reinsurance contract on behalf of a ceding insurer directly from the assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk. If the reinsurance intermediary-manager procures a reinsurance contract on behalf of an admitted ceding insurer that is placed through a representative of the assuming insurer, other than an employee thereof, written evidence that the reinsurer has delegated binding authority to the representative.

(e) The reinsurer shall have access and the right to copy all accounts and records maintained by the reinsurance

intermediary-manager related to its business in a form usable by the reinsurer.

(f) The contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.

(g) The reinsurance intermediary-manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

(h) The contract shall set forth the rates, terms, and purposes of commissions, charges, and other fees ~~which~~ *that* the reinsurance intermediary-manager may levy against the reinsurer.

(i) If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer, it shall contain all of the following provisions:

(1) All claims shall be reported to the reinsurer in a timely manner.

(2) A copy of the claim file shall be sent to the reinsurer at its request or as soon as it becomes known that *any of the following applies to* the claim ~~(A)~~*:*

(A) The claim has the potential to exceed the ~~lessor~~ *lesser* of an amount determined by the commissioner or the limit set by the reinsurer~~, (B)~~.

(B) The claim involves a coverage dispute~~, (C)~~.

(C) The claim may exceed the reinsurance intermediary-manager's claims settlement authority~~, or (D)~~.

(D) The claim is open for more than six months, unless the reinsurer agrees in writing to waive this requirement, in which event the reinsurance intermediary-manager shall annually provide the reinsurer with an exhibit identifying and describing each open claim.

(3) All claim files ~~will~~ *shall* be joint property of the reinsurer and the reinsurer intermediary-manager. However, upon an order of liquidation of the reinsurer, these files shall become the sole property of the reinsurer or its estate, except when the reinsurance intermediary-manager is also managing the claim files for other reinsurers. In that event, the reinsurance intermediary-manager shall simultaneously and immediately provide the liquidator with copies of all the claim files. With respect to claim files pertaining solely to a reinsurer in liquidation, the reinsurance intermediary-manager shall have

reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the reinsurance ~~intermediary-mana ger~~ *intermediary-manager* may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.

(j) If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, interim profits shall not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business ~~(or~~, *or* a later period set by the commissioner for specified lines of ~~insurance)~~ *insurance*, and not until the adequacy of reserves on remaining claims has been verified pursuant to subdivision (c) of Section 1781.9.

(k) The reinsurance intermediary-manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant and annually shall provide the reinsurer with a certification from an independent certified public accountant that the reinsurance intermediary-manager's allocations of premiums and losses to the reinsurer have been made on a timely and proper basis.

(*l*) The reinsurer shall periodically and at least semiannually conduct an onsite review of the underwriting and claims processing operations of the reinsurance intermediary-manager.

(m) The reinsurance intermediary-manager shall disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with the insurer pursuant to the contract.

(n) Within the scope of its actual or apparent authority, the acts of the reinsurance intermediary-manager shall be deemed to be the acts of the reinsurer on whose behalf it is acting.

SEC. 459. Section 1802.5 of the Insurance Code is amended to read:

1802.5. A bail permittee's license, by its terms, permits the licensee to solicit, negotiate, issue, and deliver bail bonds. ~~Such~~ *The* license shall not be issued unless and until there is filed with the commissioner~~:~~

~~(a) A~~ *a* bond having an admitted surety insurer as surety thereon in the penal sum of ~~$5,000~~ *five thousand dollars ($5,000)*, conditioned upon the proper application and disposal of all moneys collected or received by the bail permittee, his *or her* solicitors licensed pursuant to his *or her* appointment, and his *or her* employees, in favor of the people of the State of California.

SEC. 460. Section 1842 of the Insurance Code is amended to read:

1842. *(a)* The provisions of Chapter 5 (commencing with Section 1621) concerning the license period and the procedure and time for filing applications for renewal of licenses and for filing notices of intention to keep licenses in force applicable to life agents are applicable to licenses authorized by this chapter except that participation in ~~such~~ *the* applications or notices by an admitted insurer is not required.

(b) The fee for filing an application for the issuance or renewal of a license to act as a life and disability insurance analyst or ~~an~~ *a* notice of intention to keep ~~such a~~ *the* license in force is one hundred eighteen dollars ($118). As respects life and disability insurance analysts all references in Section 1718 to fees shall be deemed to be ~~to the~~ *this* fee ~~herein specified~~. The fee for filing application to take the qualifying examination for life and disability insurance analyst is fifty-nine dollars ($59) and the fee for filing the first application to take the qualifying examination must be paid at the same time the application for issuance of the license is paid. The fees specified in this section shall be paid in advance, and shall be determined by multiplying the number of natural persons to be licensed, or to be named on or added to a license, by the amounts specified in this section as to each ~~such~~ license, multiplied by the number of license years in the period of the license applied for, or the remaining period of the existing license counting any initial fractional license year of the period as one year for that purpose.

SEC. 461. Section 1874.2 of the Insurance Code is amended to read:

1874.2. (a) Upon written request to an insurer by an authorized governmental agency, an insurer~~,~~ or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental

agency ~~which~~ *that* the insurer may possess relating to any specific motor vehicle theft or motor vehicle insurance fraud. Relevant information may include, but is not limited to, all of the following:

(1) Insurance policy information relevant to the motor vehicle theft or motor vehicle insurance fraud under investigation, including, but not limited to, any application for a policy.

(2) Policy premium payment records ~~which~~ *that* are available.

(3) History of previous claims made by the insured.

(4) Information relating to the investigation of the motor vehicle theft or motor vehicle insurance fraud, including statements of any person, proof of loss, and notice of loss.

(b) (1) When an insurer knows or reasonably believes it knows the identity of a person whom it has reason to believe committed a criminal or fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim or has knowledge of ~~such a~~ *the* criminal or fraudulent act ~~which~~ *that* is reasonably believed not to have been reported to an authorized governmental agency, then, for the purpose of notification and investigation, the insurer, or an agent authorized by an insurer to act on its behalf, shall notify the local police department, sheriff's office, the Department of the California Highway Patrol, or district attorney's office, and may notify any other authorized governmental agency of that knowledge or reasonable belief and provide any additional information in accordance with subdivision (a).

(2) When an insurer provides the local police department, sheriff's office, ~~the~~ Department of the California Highway Patrol, or district attorney's office with notice pursuant to this section, it shall be deemed sufficient notice to all authorized governmental agencies for the purpose of this chapter. Nothing in this section shall relieve an insurer of its obligations under Section ~~12992 of the Insurance Code~~ *1872.4*.

(3) Nothing in this subdivision shall abrogate or impair the rights or powers created under subdivision (a).

(c) The authorized governmental agency provided with information pursuant to subdivision (a) or (b) may release or provide that information to any other authorized governmental agency.

(d) An authorized governmental agency shall notify the affected insurer in writing when it has reason to believe that a fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim has been committed. The agency shall provide this notice within a reasonable time, not to exceed 30 days. The agency may also release more specific information pursuant to this section when it determines that an ongoing investigation would not be jeopardized. The agency may require a fee from the insurer equal to the cost of providing the notice or the information specified in this section.

(e) An insurer providing information to an authorized agency pursuant to this section shall provide the information within a reasonable time, but not to exceed 30 days from the day on which the duty arose.

SEC. 462. Section 1903 of the Insurance Code is amended to read:

1903. In ~~a~~ marine insurance, concealment in respect to any of the following matters does not vitiate the entire contract, but merely exonerates the insurer from a loss resulting from the risk concealed:

(a) The national character of the insured.

(b) The liability of the subject matter to capture and detention.

(c) The liability to seizure from breach of foreign laws of trade.

(d) The want of necessary documents.

(e) The use of false and simulated papers.

SEC. 463. Section 10123.141 of the Insurance Code is amended to read:

10123.141. *(a)* Every policy of expense incurred hospital, medical, or surgical insurance issued, amended, or renewed on or after January 1, 1991, on a group basis, except for policies ~~which~~ *that* only provide coverage for specified diseases or other limited benefit coverage, shall offer coverage as an option for special footwear needed by persons who suffer from foot disfigurement under ~~such~~ *the* terms and conditions ~~as may be~~ agreed upon between the group contract holder and the insurer.

(b) As used in this section, foot disfigurement shall include, but not be limited to, disfigurement from cerebral palsy, arthritis, polio, ~~spinabifida~~ *spina bifida*, *and* diabetes, and foot disfigurement caused by accident or developmental disability.

SEC. 464. Section 10133.56 of the Insurance Code is amended to read:

10133.56. (a) A health insurer that enters into a contract with a professional or institutional provider to provide services at alternative rates of payment pursuant to Section 10133 shall, at the request of an insured, arrange for the completion of covered services by a terminated provider, if the insured is undergoing a course of treatment for any of the following conditions:

(1) An acute condition. An acute condition is a medical condition that involves a sudden onset of symptoms due to an illness, injury, or other medical problem that requires prompt medical attention and that has a limited duration. Completion of covered services shall be provided for the duration of the acute condition.

(2) A serious chronic condition. A serious chronic condition is a medical condition due to a disease, illness, or other medical problem or medical disorder that is serious in nature and that persists without full cure or worsens over an extended period of time or requires ongoing treatment to maintain remission or prevent deterioration. Completion of covered services shall be provided for a period of time necessary to complete a course of treatment and to arrange for a safe transfer to another provider, as determined by the health insurer in consultation with the insured and the terminated provider and consistent with good professional practice. Completion of covered services under this paragraph shall not exceed 12 months from the contract termination date.

(3) A pregnancy. A pregnancy is the three trimesters of pregnancy and the immediate postpartum period. Completion of covered services shall be provided for the duration of the pregnancy.

(4) A terminal illness. A terminal illness is an incurable or irreversible condition that has a high probability of causing death within one year or less. Completion of covered services shall be provided for the duration of a terminal illness, which may exceed 12 months from the contract termination date.

(5) The care of a newborn child between birth and age 36 months. Completion of covered services under this paragraph shall not exceed 12 months from the contract termination date.

(6) Performance of a surgery or other procedure that has been recommended and documented by the provider to occur within 180 days of the contract's termination date.

(b) The insurer may require the terminated provider whose services are continued beyond the contract termination date pursuant to this section, to agree in writing to be subject to the same contractual terms and conditions that were imposed upon the provider prior to termination, including, but not limited to, credentialing, hospital privileging, utilization review, peer review, and quality assurance requirements. If the terminated provider does not agree to comply or does not comply with these contractual terms and conditions, the insurer is not required to continue the provider's services beyond the contract termination date.

(c) Unless otherwise agreed upon between the terminated provider and the insurer or between the terminated provider and the provider group, the agreement shall be construed to require a rate and method of payment to the terminated provider, for the services rendered pursuant to this section, that are the same as the rate and method of payment for the same services while under contract with the insurer and at the time of termination. The provider shall accept the reimbursement as payment in full and shall not bill the insured for any amount in excess of the reimbursement rate, with the exception of copayments and deductibles pursuant to subdivision (e).

(d) Notice as to the process by which an insured may request completion of covered services pursuant to this section shall be provided in any insurer evidence of coverage and disclosure form issued after March 31, 2004. An insurer shall provide a written copy of this information to its contracting providers and provider groups. An insurer shall also provide a copy to its insureds upon request.

(e) The payment of copayments, deductibles, or other ~~cost sharing~~ *cost-sharing* components by the insured during the period of completion of covered services with a terminated provider shall be the same copayments, deductibles, or other ~~cost sharing~~ *cost-sharing* components that would be paid by the insured when receiving care from a provider currently contracting with the insurer.

(f) If an insurer delegates the responsibility of complying with this section to its contracting entities, the insurer shall ensure that the requirements of this section are met.

(g) For the purposes of this section, *the following terms have the following meanings*:

(1) "Provider" means a person who is a licentiate as defined in Section 805 of the Business and Professions Code or a person licensed under Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code.

(2) "Terminated provider" means a provider whose contract to provide services to insureds is terminated or not renewed by the insurer or one of the insurer's contracting provider groups. A terminated provider is not a provider who voluntarily leaves the insurer or contracting provider group.

(3) "Provider group" includes a medical group, independent practice association, or any other similar organization.

(h) This section shall not require an insurer or provider group to provide for the completion of covered services by a provider whose contract with the insurer or provider group has been terminated or not renewed for reasons relating to medical disciplinary cause or reason, as defined in paragraph (6) of subdivision (a) of Section 805 of the Business and Professions Code, or fraud or other criminal activity.

(i) This section shall not require an insurer to cover services or provide benefits that are not otherwise covered under the terms and conditions of the insurer contract.

(j) The provisions contained in this section are in addition to any other responsibilities of insurers to provide continuity of care pursuant to this chapter. Nothing in this section shall preclude an insurer from providing continuity of care beyond the requirements of this section.

SEC. 465. Section 10136 of the Insurance Code is amended to read:

10136. (a) No transfer of structured settlement payment rights, either directly or indirectly, shall be effective by a payee domiciled in this state, or by a payee entitled to receive payments under a structured settlement funded by an insurance contract issued by an insurer domiciled in this state or owned by an insurer or corporation domiciled in this state, and no structured settlement obligor or annuity issuer shall be required to make any

payment directly or indirectly to a transferee, unless all of the provisions of this section are satisfied.

(b) Ten or more days before the payee executes a transfer agreement, the transferee shall provide the payee with a separate written disclosure statement, accurately completed with the information that applies to the transfer agreement, in substantially the following form, in at least 12-point type unless otherwise indicated (bracketed instructions shall not appear in the form):

"Disclosure Notice Required By Law [14-point boldface type]

You are selling (technically called ~~"transferring")~~ *'transferring')* your right to receive your payments under a structured settlement. You should get this disclosure notice at least 10 days before you sign any contract.

IMPORTANT TERMS: [14-point boldface type]

Total dollar amount of payments you are selling:	$_____
Present value of amount you are selling:	$_____
Net amount paid to you:	$_____

For comparison purposes:

If you did not sell your right to receive structured settlement payments, but instead borrowed the net amount of $____ and paid that loan back in installments with each of the payments you are now selling, the equivalent interest rate you would be paying for that loan would be ____% per year.

[The text and information set forth above under ~~"IMPORTANT TERMS"~~ *'IMPORTANT TERMS'* shall be in 14-point type and circumscribed by a box with a bold border]

To figure the net amount we are paying, we have charged you for the following expenses:

[itemize in a list by type and amount]

for a total of $____ in expenses.

You should get independent professional advice about whether selling your structured settlement payments is a good idea for you and for your dependents.

You also should get independent professional advice from an accountant or lawyer experienced in tax matters about any income tax consequences from selling your structured settlement payments. We cannot give you the name of anyone to advise you.

Court approval is needed [14-point boldface type]. A court must approve any agreement you sign to sell your rights under a structured settlement. You will not receive any money until the court approves the sale. Court approval could take more than 30 days following the day you sign an agreement selling your rights under a structured settlement.

You may cancel the contract before court approval [14-point boldface type]. You may cancel the agreement selling (or transferring) your rights under a structured settlement without any cost or obligation. You may cancel at any time before the court approves the contract. You will get notice of the date of the court hearing.

If you want to cancel, you do not need any special form. But, you must cancel in writing. Send your cancellation to: [insert transferee's name and address].

If you believe that you have been treated unfairly or have been misled, you should contact your local district attorney or the state Attorney General."

(c) The transfer agreement shall be written in at least 12-point type and shall be complete and without blank spaces to be completed after the payee's signature. The transfer agreement shall set forth clear and conspicuously, and in no less than 12-point type, all of the following:

(1) A statement that the agreement is not effective until the date on which a court enters a final order approving the transfer agreement and that payment to the payee pursuant to the transfer agreement will be delayed up to 30 days or more after the date the payee signed the transfer agreement in order for the court to review and approve the transfer agreement.

(2) The amounts and due dates of the structured settlement payments to be transferred.

(3) The aggregate amount of the structured settlement payments to be transferred. This amount shall be disclosed in the

form prescribed in subdivision (b) in the space ~~for "Total~~ *for "Total* dollar amount of payments you are selling."

(4) The aggregate amount of all expenses, if any, to be deducted from the purchase price to be paid to the payee in exchange for the payments to be transferred, and an itemization of all expenses by type and amount.

(5) The amount payable to the payee, net of all expenses, in exchange for the payments to be transferred. This amount shall be disclosed in the form prescribed in subdivision (b) in the spaces ~~for "Net~~ *for "Net* amount paid to you" and "net amount."

(6) The discounted present value of all structured settlement payments to be transferred and a statement that "This is the value of your structured settlement in current dollars." This amount shall be disclosed in the form prescribed in subdivision (b) in the space ~~for "Present~~ *for "Present* value of ~~the~~ amount you are selling."

(7) The federal rate, as described in subdivision (c) of Section 10134, used in determining the discounted present value.

(8) The effective equivalent interest rate, which shall be disclosed in the following statement:

"YOU WILL BE PAYING THE EQUIVALENT OF AN INTEREST RATE OF ____% PER YEAR.

Based on the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, if the transferred structured settlement payments were installment payments on a loan, with each payment applied first to accrued unpaid interest and then to principal, it would be as if you were paying interest to us of ____% per year, assuming funding on the effective date of transfer."

This percentage amount shall be disclosed in the form prescribed in subdivision (b) in the space for "the equivalent interest rate you would be paying for this loan would be ____% per year."

(9) The quotient (expressed as a percentage) obtained by dividing the net payment amount by the discounted present value of the payments.

(10) A statement that the payee should obtain independent professional advice regarding any federal and state income tax consequences arising from the proposed transfer, and that the

transferee may not refer the payee to any specific adviser for that purpose.

(11) A statement that the court approving the transfer agreement retains continuing jurisdiction to interpret and monitor implementation of the agreement as justice may require.

(12) The following statement: "If you believe you were treated unfairly or were misled as to the nature of the obligations you assumed upon entering into this agreement, you should report those circumstances to your local district attorney or the office of the Attorney General."

(13) The following statement printed in 14-point type, circumscribed by a box with a bold border, and set forth immediately above or adjacent to the space reserved for the payee's signature: "You have the right to cancel this agreement without any cost or obligation until the date the court approves this agreement. You will receive notice of the court hearing date when approval may occur. You must cancel in writing and send your cancellation to [insert transferee's name and address]."

(d) The contract for transferring the structured settlement payment rights may not violate Section 10138.

(e) At any time before the date on which a court enters a final order approving the transfer agreement pursuant to Section 10139.5, the payee may cancel the transfer agreement, without cost or further obligation, by providing written notice of cancellation to the transferee.

SEC. 466. Section 10203.4 of the Insurance Code is amended to read:

10203.4. *(a)* Insurance under any group life insurance policy issued pursuant to Sections 10202, ~~10202.7,~~ 10202.8, 10203, 10203.1, and 10203.7 may, if 75 percent of the insured employees elect, be extended to insure the dependents, or any class or classes thereof, of each insured employee who so elects, in amounts in accordance with some plan ~~which~~ *that* precludes individual selection and ~~which~~ *that* shall not be in excess of 50 percent of the insurance on the life of ~~such~~ *the* insured employee.

(b) "Dependent" includes the member's spouse and all unmarried children from birth through 20 years of age, or through age 22~~,~~ *years* if the dependent child is attending an educational institution, or a child 21 years of age or ~~over~~ *older* who is both ~~(a)~~ incapable of self-sustaining employment by

reason of mental retardation or physical handicap and ~~(b)~~ chiefly dependent upon the employee for support and maintenance~~,~~ ~~provided~~ *if* proof of ~~such~~ *the* incapacity and dependency is furnished to the insurer by the employee within 31 days of the child's attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(c) The premiums for the insurance on ~~such~~ *the* dependents may be paid by the employer ~~or by~~, the employee, or ~~by~~ the employer and the employee jointly.

SEC. 467. Section 10203.5 of the Insurance Code is amended to read:

10203.5. (a) Life insurance conforming to all the following conditions is another form of group life insurance:

(1) Covering one of the following groups:

(A) All members are or become borrowers from one financial institution, including subsidiary or affiliated persons, under an agreement to repay the sum borrowed.

(B) All members are or become purchasers of merchandise or other property ~~(exclusive~~, *exclusive* of securities, investment certificates, and bank ~~deposits)~~ *deposits,* under an agreement to pay the balance of the purchase price.

(2) The group numbers not less than 100 new entrants yearly or, in the case of a credit union, not less than 50 borrowers yearly.

(3) The amount insured on any one borrower or purchaser does not exceed:

(A) The amount of the loan commitment in the case of an agricultural or horticultural loan commitment ~~(as~~, *as* defined in Section ~~10203.55)~~ *10203.55,* repayable in one sum or in irregular installments within a period not in excess of 18 months from the initial date of the loan commitment.

(B) In all other cases, the balance of the indebtedness to the financial institution or vendor.

(4) The repayment or payment of purchase price is to be made~~,~~ under the agreement of loan or purchase~~;~~ in substantially equal installments over a period not exceeding 40 years~~; or~~, in installments that may vary according to the terms of a signed agreement~~; or~~, in payments or installments in accordance with

the usual terms of the creditor in the case of an open-ended agreement to extend credit, a revolving loan, or revolving charge account~~;~~*,* or in one sum or irregular installments within a period not in excess of 18 months from the initial date of the commitment on an agricultural or horticultural loan.

(5) The policy is issued upon application of and made payable to the financial institution, vendor, or a creditor to whom ~~such~~ *the* vendor may transfer title to the indebtedness, as beneficiary, and the premiums are paid by or through the financial institution, vendor, or ~~such~~ creditor.

(b) A policy of insurance conforming to ~~the provisions of~~ this section is not subject to ~~the provisions of~~ Section 10209 ~~or 10213~~ *of this code or Section 704.100 of the Code of Civil Procedure*.

SEC. 468. Section 10203.8 of the Insurance Code is amended to read:

10203.8. Life insurance conforming to all of the following conditions is another form of group life insurance:

(a) Covering the lives of every eligible member of a group of persons who become or are named depositors under a savings account plan, established by a financial institution including subsidiary or affiliated persons, which plan provides for periodic deposits of like amounts.

(b) The period during which ~~such~~ *the* deposits may be made under the plan does not exceed 60 consecutive months, and the total amount of insurance under the policy on any one depositor does not exceed the difference between the amounts deposited and the maximum amount ~~which~~ *that* may be deposited under the plan and does not exceed one thousand five hundred dollars ($1,500) on any one life.

(c) The group numbers 100 new entrants yearly.

(d) The policy is issued upon application of and made payable to the financial institution as beneficiary, and the premiums are paid by or through the financial institution.

(e) The policy of insurance conforming to ~~the provisions of~~ this section is not subject to ~~the provisions of~~ Section 10209 or ~~10213~~ *of this code or Section 704.100 of the Code of Civil Procedure*.

SEC. 469. Section 10209 of the Insurance Code is amended to read:

10209. *(a)* Except as provided by Sections 10203.5~~, 10203.6~~ and 10203.8, the policy shall contain a provision that the insurer will issue to the employer for delivery to the insured employee an individual certificate setting forth:

~~(a)~~

(1) A statement as to the insurance protection to which the employee is entitled and to whom payable.

~~(b)~~

(2) A provision that if the employment terminates for any reason whatsoever and the employee applies to the insurer within 31 days after ~~such~~ *the* termination, paying the premium applicable to the class of risk to which he *or she* belongs and to the form and amount of the policy at his *or her* then attained age, he *or she* is entitled, without producing evidence of insurability, to the issue by the insurer of any individual life policy in any one of the forms, other than term insurance, customarily issued by the insurer.

~~(c)~~

(3) A statement that ~~such~~ *the* policy in lieu of group insurance will be in an amount equal to the amount of his *or her* protection under ~~such~~ *the* group insurance at the time of ~~such~~ *the* termination.

~~(d)~~

(4) A provision that if the employee dies during the 31-day period within which he *or she* is entitled to have an individual policy issued to him *or her* in accordance with this section and before ~~any such~~ *the* policy shall have become effective, the amount of life insurance ~~which~~ *that* the employee is entitled to have issued to him *or her* under ~~such~~ *the* individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(b) If any employee insured under a group life insurance policy delivered in this state becomes entitled under the terms of ~~such~~ *the* policy to have an individual policy of life insurance issued to him *or her* without evidence of insurability, subject to making of application and payment of the first premium within the period specified in ~~such~~ *the* policy, and if ~~such~~ *the* employee is not given notice of the existence of ~~such~~ *the* right at least 15 days prior to the expiration date of ~~such~~ *the* period, ~~then, in such~~

~~event~~ the employee shall have an additional period within which to exercise ~~such~~ *the* right, but nothing ~~herein contained~~ *in this section* shall be construed to continue any insurance beyond the period provided in ~~such~~ *the* policy. This additional period shall expire 25 days next after the employee is given ~~such~~ *the* notice but in no event shall ~~such~~ *the* additional period extend beyond 60 days next after the expiration date of the period provided in ~~such~~ *the* policy. Written notice presented to the employee or mailed by the policyholder to the last-known address of the employee or mailed by the insurer to the last-known address of the employee as furnished by the policyholder shall constitute notice for the purpose of this section.

~~The provisions of (b) and (d) and the preceding paragraph~~

(c) Paragraphs (2) and (4) of subdivision (a), and subdivision (b), shall apply to any insurance issued pursuant to Section 10203.4 on the life of a spouse of an employee.

(d) The contract of insurance and individual certificate may contain provisions defining the extent to which the employer acts as the agent of the employee or may act as the agent of the insurer.

SEC. 470. Section 10350.2 of the Insurance Code is amended to read:

10350.2. A disability policy shall contain a provision ~~which~~ *that* shall be in one of the two forms set forth ~~herein~~ *in this section*. Policies other than noncancellable policies shall use Form A. Noncancellable policies shall use either Form A or Form B. In Form B, the clause in parentheses in paragraph (a) may be omitted at the insurer's option. Paragraph (a) in Form A shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during the initial two-year period, nor to limit the application of Sections 10369.2 to 10369.6, inclusive, in the event of misstatement with respect to age or occupation or other insurance.

Form A.

Time Limit on Certain Defenses: (a) After two years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for ~~such~~ *the* policy shall be used to void the policy or to deny a claim for

loss incurred or disability (as defined in the policy) commencing after the expiration of ~~such~~ *the* two-year period.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

Form B.

Incontestable: (a) After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

~~(c)~~

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

SEC. 471. Section 11580.1 of the Insurance Code is amended to read:

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under the policy (1) to the extent that the insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if the policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for those motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any owned or leased motor vehicle covered by the policy, and to the same extent that insurance is afforded to the named insured, to any other person using the motor vehicle, provided the use is by the named insured or with his or her permission, express or implied, and within the scope of that permission, except that: ~~(i)~~ *(A)* with regard to insurance afforded for the loading or unloading of the motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any of those persons; and ~~(ii)~~ *(B)* the insurance afforded to any person other than the named insured need not apply to: ~~(A)~~ *(i)* any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his or her employment, or ~~(B)~~ *(ii)* any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith. As used in this chapter, "owned motor vehicle" includes all motor vehicles described and rated in the policy.

(c) In addition to any exclusion provided in paragraph (3) of subdivision (b), the insurance afforded by any policy of automobile liability insurance to which subdivision (a) applies, including the insurer's obligation to defend, may, by appropriate policy provision, be made inapplicable to any or all of the following:

(1) Liability assumed by the insured under contract.

(2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

(3) Liability imposed upon or assumed by the insured under any workers' compensation law.

(4) Liability for bodily injury to any employee of the insured arising out of and in the course of his or her employment.

(5) Liability for bodily injury to an insured or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle operated by an insured shall be considered to be property in the charge of an insured.

(7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.

(8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

~~The term "the~~ "*The* insured" as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. ~~The term "an~~ "*An* insured" as used in paragraphs (5) and (6) shall mean any insured under the policy including those persons who would have otherwise been included within the policy's definition of an insured but, by agreement, are subject to the limitations of paragraph (1) of subdivision (d).

(d) Notwithstanding ~~the provisions of~~ paragraph (4) of subdivision (b), or ~~the provisions of~~ Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, the agreement to be binding upon every insured to whom the policy applies and upon every third-party claimant:

(1) That coverage and the insurer's obligation to defend under the policy shall not apply nor accrue to the benefit of any insured or any third-party claimant while any motor vehicle is being used or operated by a natural person or persons designated by name. These limitations shall apply to any use or operation of a motor

vehicle, including the negligent or alleged negligent entrustment of a motor vehicle to that designated person or persons. This agreement applies to all coverage provided by that policy and is sufficient to comply with the requirements of paragraph (2) of subdivision (a) of Section 11580.2 to delete coverage when a motor vehicle is operated by a natural person or persons designated by name. The insurer shall have an obligation to defend the named insured when all of the following apply to that designated natural person:

(A) He or she is a resident of the same household as the named insured.

(B) As a result of operating the insured motor vehicle of the named insured, he or she is jointly sued with the named insured.

(C) He or she is an insured under a separate automobile liability insurance policy issued to him or her as a named insured, which policy does not provide a defense to the named insured.

An agreement made by the insurer and any named insured more than 60 days following the inception of the policy excluding a designated person by name shall be effective from the date of the agreement and shall, with the signature of a named insured, be conclusive evidence of the validity of the agreement.

That agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of the policy by the named insured, or reinstatement of the policy within 30 days of any lapse thereof.

(2) That with regard to a policy issued to a named insured engaged in the business of leasing vehicles for those vehicles that are leased for a term in excess of six months, or selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his or her agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to that person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each

vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an "automobile liability policy" within the meaning of Section 16054 of the Vehicle Code, or as a "motor vehicle liability policy" within the meaning of Section 16450 of the Vehicle Code, nor shall ~~any provision of~~ this section apply to a policy that provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) *(1)* On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision that expressly or impliedly excludes from coverage under the policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of those services at a rate not to exceed the following:

~~(1)~~

(A) For the 1980–81 fiscal year, the maximum rate authorized by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, which shall also be known as the "base rate."

~~(2)~~

(B) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* or (B) the base rate as adjusted by the California Consumer Price Index.

(2) No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

(3) For the purposes of this section, "social service transportation" means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(g) Notwithstanding ~~the provisions of~~ paragraph (4) of subdivision (b) ~~of this section~~, or ~~the provisions of~~ Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under that policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. The agreement shall be binding upon every insured to whom the policy applies and upon any third-party claimant.

(h) No policy of automobile insurance that provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

SEC. 472. Section 11872 of the Insurance Code is amended to read:

11872. The fund may annually enter into agreements with state agencies for service to be rendered to the fund. ~~Such~~ *These* state agencies include, but shall not be limited to: the Department of Finance, Department of General Services, State Personnel Board, and the Public Employees' Retirement System. If ~~such~~ *these* agencies and the fund cannot agree upon the cost of services provided by ~~such~~ *the* agreements, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall be requested to arrive at an equitable settlement.

SEC. 473. Section 12640.02 of the Insurance Code is amended to read:

12640.02. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code.

(a) "Mortgage guaranty insurance" means:

(1) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate, provided the improvement on the real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families.

(2) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a junior lien or charge on real estate, provided the improvement on the real estate is a residential building or a condominium unit or building designed for occupancy by not more than four families.

(3) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on the real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes.

(4) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use, or occupancy of real estate, provided the improvement on the real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) (1) "Authorized real estate security" for the purposes of this chapter means either (A) real estate, plus the balance of any pledged cash account, pledged borrower retirement account, or collateralized guaranty agreement contracted for by parents, blood relatives, employers, or nonprofit corporations for the benefit of the borrower; or (B) real estate securing a note, bond, or other evidence of indebtedness by a junior mortgage, deed of trust, or other instrument constituting a junior lien or charge on the real estate, which, when combined with all existing mortgage loan amounts, does not exceed a total indebtedness equal to 103 percent of the fair market value of the real estate at the time the junior loan is made, provided that, in determining the foregoing ~~103 percent~~ *103-percent* limitation, if the loan securing the junior lien is an equity line of credit loan, the full amount of the line of credit to be secured by the junior lien shall be considered the amount of the loan, and further provided, in all cases that both of the following are true:

(i) The real estate loan secured in this manner is any type of loan ~~which~~ *that* a bank, savings ~~and loan~~ association, mortgage banker, credit union, mortgage loan broker, or ~~an~~ insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make or arrange, or would be authorized to make or arrange, disregarding any requirement applicable to an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

(ii) The improvement on the real estate is a building or buildings designed for occupancy as specified by paragraphs (1), (2), and (3) of subdivision (a).

~~(C)~~

(2) The lien on the real estate may be subject and subordinate to the following:

~~(i)~~

(A) The lien of any public bond, assessment, or tax, when no installment, call, or payment of or under the bond, assessment, or tax is delinquent.

~~(ii)~~

(B) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon the real property under which rents or profits are reserved to the owner thereof.

~~(2)~~

(3) "Authorized real estate security" also means a stock or membership certificate issued to a tenant-stockholder or resident-member by a completed fee simple cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code and Section 216 of the United States Internal Revenue Code.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders surplus" means the aggregate of capital, surplus, and contingency reserve.

SEC. 474. Section 12698.50 of the Insurance Code is amended to read:

12698.50. (a) ~~(1)~~ It shall constitute unfair competition for purposes of Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code for an insurer, an insurance agent or broker, or an administrator, as defined in Section 1759, to refer an individual employee or employee's dependent to the program, or arrange for an individual employee or employee's dependent to apply to the program, for the purpose of separating that employee or employee's dependent from group health coverage provided in connection with the employee's employment.

(b) Any employee described in subdivision (a) shall have a personal right of action to enforce subdivision (a).

SEC. 475. Section 12698.54 of the Insurance Code is amended to read:

12698.54. It shall constitute an unfair labor practice contrary to public policy and enforceable under Section 95 of the Labor Code for any employer to change the employee-employer

share-of-cost ratio or to make any other modification of maternity care coverage for employees or employees' dependents that results in the enrollment of the employees or employees' dependents in the program established pursuant *to* this part.

SEC. 476. Section 15039 of the Insurance Code is amended to read:

15039. The commissioner may suspend or revoke a license issued under this chapter if he or she determines that the licensee has done any of the following:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of the license.

(b) Violated ~~any provision of~~ this chapter.

(c) Violated any rule of the commissioner adopted pursuant to the authority contained in this chapter.

(d) Been convicted of any crime substantially related to the qualifications, functions, and duties of the holder of the registration or license in question.

(e) Impersonated, or permitted, or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or subdivision thereof.

(f) Committed or permitted any employee to commit any act, while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or ~~caper~~ *capper* for any attorney.

(k) Committed any act which is a ground for denial of an application for license under this chapter.

(*l*) Manufactured evidence.

(m) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by that client or former client.

SEC. 477. Section 98 of the Labor Code is amended to read:

98. (a) The Labor Commissioner shall have the authority to investigate employee complaints. The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the division or the Labor Commissioner, including orders of the Industrial Welfare Commission, and shall determine all matters arising under his or her jurisdiction. It shall be within the jurisdiction of the Labor Commissioner to accept and determine claims from holders of payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a diligent search, the holder is unable to return the dishonored check or draft to the payee and recover the sums paid out. Within 30 days of *the* filing of the complaint, the Labor Commissioner shall notify the parties as to whether a hearing will be held, ~~or~~ whether action will be taken in accordance with Section 98.3, or whether no further action will be taken on the complaint. If the determination is made by the Labor Commissioner to hold a hearing, the hearing shall be held within 90 days of the date of that determination. However, the Labor Commissioner may postpone or grant additional time before setting a hearing if the Labor Commissioner finds that it would lead to an equitable and just resolution of the dispute.

It is the intent of the Legislature that hearings held pursuant to this section be conducted in an informal setting preserving the right of the parties.

(b) When a hearing is set, a copy of the complaint, which shall include the amount of compensation requested, together with a notice of time and place of the hearing, shall be served on all parties, personally or by certified mail, or in the manner specified in Section 415.20 of the Code of Civil Procedure.

(c) Within 10 days after service of the notice and the complaint, a defendant may file an answer with the Labor Commissioner in any form as the Labor Commissioner may prescribe, setting forth the particulars in which the complaint is inaccurate or incomplete and the facts upon which the defendant intends to rely.

(d) No pleading other than the complaint and answer of the defendant or defendants shall be required. Both shall be in writing and shall conform to the form and the rules of practice and procedure adopted by the Labor Commissioner.

(e) Evidence on matters not pleaded in the answer shall be allowed only on terms and conditions the Labor Commissioner shall impose. In all these cases, the claimant shall be entitled to a continuance for purposes of review of the new evidence.

(f) If the defendant fails to appear or answer within the time allowed under this chapter, no default shall be taken against him or her, but the Labor Commissioner shall hear the evidence offered and shall issue an order, decision, or award in accordance with the evidence. A defendant failing to appear or answer, or subsequently contending to be aggrieved in any manner by want of notice of the pendency of the proceedings, may apply to the Labor Commissioner for relief in accordance with Section 473 of the Code of Civil Procedure. The Labor Commissioner may afford this relief. No right to relief, including the claim that the findings or award of the Labor Commissioner or judgment entered thereon are void upon their face, shall accrue to the defendant in any court unless prior application is made to the Labor Commissioner in accordance with this chapter.

(g) All hearings conducted pursuant to this chapter are governed by the division and by the rules of practice and procedure adopted by the Labor Commissioner.

(h) *(1)* Whenever a claim is filed under this chapter against a person operating or doing business under a fictitious business name, as defined in Section 17900 of the Business and Professions Code, which relates to the person's business, the division shall inquire at the time of the hearing whether the name of the person is the legal name under which the business or person has been licensed, registered, incorporated, or otherwise authorized to do business.

(2) The division may amend an order, decision, or award to conform to the legal name of the business or the person who is the defendant to a wage claim, ~~provided~~ *if* it can be shown that proper service was made on the defendant or his or her agent, unless a judgment had been entered on the order, decision, or award pursuant to subdivision (d) of Section 98.2. The Labor Commissioner may apply to the clerk of the superior court to

amend a judgment that has been issued pursuant to a final order, decision, or award to conform to the legal name of the defendant, ~~provided~~ *if* it can be shown that proper service was made on the defendant or his or her agent.

SEC. 478. Section 142.4 of the Labor Code is amended to read:

142.4. (a) Occupational safety and health standards and orders shall be adopted, amended, or repealed as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as modified by this chapter.

(b) If an emergency regulation is based upon an emergency temporary standard published in the Federal Register by the Secretary of Labor pursuant to Section 6(c)(1) of the Federal Occupational Safety and Health Act of 1970 (P.L. ~~91-596)~~ *91-596; 29 U.S.C. Sec. 655(c)(1))*, the 120-day period specified in Section ~~11422.1~~ *11346.1* of the Government Code shall be deemed not to expire until 120 days after a permanent standard is promulgated by the Secretary of Labor pursuant to Section 6(c)(3)~~,~~ of the Federal Occupational Safety and Health Act of 1970 *(29 U.S.C. Sec. 655(c)(3))*.

SEC. 479. Section 226.4 of the Labor Code is amended to read:

226.4. If, upon inspection or investigation, the Labor Commissioner determines that an employer is in violation of subdivision (a) of Section 226, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the ~~statuory~~ *statutory* provision alleged to have been violated.

SEC. 480. Section 243 of the Labor Code is amended to read:

243. (a) If, within 10 years of either a conviction for a violation of this article or ~~of~~ failing to satisfy a judgment for nonpayment of wages, or *of* both, it is alleged that an employer on a second occasion has been convicted of again violating this article or is failing to satisfy a judgment for nonpayment of wages, an employee or the employee's legal representative, an attorney licensed to practice law in this state, may, on behalf of

himself or herself and others, bring an action in a court of competent jurisdiction for a temporary restraining order prohibiting the employer from doing business in this state unless the employer deposits with the court a bond to secure compliance by the employer with this article or to satisfy the judgment for nonpayment of wages.

(b) Upon the filing of an affidavit ~~which~~ *that*, to the satisfaction of the court, shows reasonable proof that an employer, for the second time within 10 years, has been convicted of violating this article or has failed to satisfy a judgment for the nonpayment of wages, or both, the court, pursuant to Section 527 of the Code of Civil Procedure, may grant a temporary restraining order ~~which~~ *that* prohibits the employer within 30 days from conducting any business within the state, unless the employer deposits a bond payable to the Labor Commissioner ~~which~~ *that* is conditioned on the employer making wage payments in accordance with this article, or upon satisfaction by the employer of any judgment for nonpayment of wages, or both. The court shall order that the bond be deposited with the court by the employer at any point in time that, within a five-year period from the date of the order, the employer employs more than 10 employees. The court shall order that the bond be in an amount equal to twenty-five thousand dollars ($25,000) or 25 percent of the weekly gross payroll of the employer at the time of the posting of the bond, whichever is greater, and that the term of the bond be for the duration of the service of the employee who brought the action, until past due wages have been paid, or until satisfaction of a judgment for nonpayment of wages.

(c) For purposes of subdivision (b), an employer shall be deemed to have been convicted of having violated this article or to have failed to satisfy a judgment for the second time within 10 years if, to secure labor or personal services in connection with his or her business, the employer uses the services of an agent, contractor, or subcontractor who is convicted of a violation of this article or fails to satisfy a judgment for wages respecting those employees, or both, but only if the employer had actual knowledge of the person’s failure to pay wages. In issuing a temporary restraining order pursuant to this section, the court, in determining the amount and term of the bond, shall count the

agent's, contractor's, or subcontractor's employees as part of the employer's total work force. This subdivision shall not apply where a temporary restraining order against the agent, contractor, or subcontractor *as an employer* has been issued~~, as an employer,~~ pursuant to subdivision (b).

(d) An employer who, for the third time within 10 years of the first occurrence, is alleged to have violated this article or to have failed to satisfy a judgment for nonpayment of wages, or both, shall be deemed by the court to have commenced a new five-year period for which the posting of a bond may be ordered in accordance with subdivision (b), except that the court may, in its discretion, require the posting of a bond in a greater amount as it determines appropriate under the circumstances.

(e) A former employee who was a party to an earlier action against an employer in which a judgment for the payment of wages was obtained, and who alleges that the employer has failed to satisfy the judgment for the payment of wages, in addition to any other available remedy, may petition the court pursuant to subdivision (b) for a temporary restraining order against the employer to cease doing business in this state unless the employer posts a bond with the court.

(f) Actions brought pursuant to this section shall be set for trial at the earliest possible date, and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence may be given by law.

(g) Nothing in this section shall be construed to impose any mandatory duties on the Labor Commissioner.

SEC. 481. Section 270.6 of the Labor Code is amended to read:

270.6. (a) No person, or agent or officer thereof, without a permanent and fixed place of business or residence in this state who uses or employs any person in the door-to-door selling of any merchandise,~~ or~~ in any similar itinerant activity, or in any telephone solicitation, shall fail or neglect, before commencing work in any period for which any single payment of wages is made or for four calendar weeks, whichever is longer, to do *any* one of the following:

(1) Have on hand or on deposit with a bank or trust company in the county where~~ such~~ *the* business is conducted, or if there is no bank or trust company in the county, then in the bank or trust

company nearest ~~such~~ *these* operations, cash or readily salable securities of a market value sufficient to pay the wages of every person employed in connection with ~~such~~ *these* operations for ~~such~~ *that* period~~, or~~ *described in this subdivision.*

(2) Deposit with the Labor Commissioner the bond of a surety company authorized to do business within the state, acceptable to the Labor ~~Commisioner~~ *Commissioner*, conditioned upon the payment of all wages found to be due and unpaid in connection with ~~such~~ *these* operations under any provision of this code~~, or~~.

(3) Deposit with the Labor Commissioner a time certificate of deposit indicating that the person, agent, or officer subject to ~~the provisions of~~ this section has deposited with a bank or trust company cash payable to the order of the Labor Commissioner sufficient to pay the wages of every person employed in connection with ~~such~~ *these* operations for ~~such~~ *that* period *described in this subdivision*.

(b) The cash and securities on deposit referred to in subdivision (a) shall not be commingled with other deposits, securities, or property of the employer and shall be held in trust and shall not be used for any other purpose than paying the wages due employees. ~~Such~~ *The* moneys so held in trust are not subject to enforcement of a money judgment by any other creditor of the employer.

(c) Any person, or agent or officer thereof, who violates this section is guilty of a misdemeanor.

SEC. 482. Section 1182.6 of the Labor Code is amended to read:

1182.6. (a) No employer who continuously operates a manufacturing facility 24 hours a day for seven days a week, and who has had in operation an established preexisting workweek arrangement, as defined in subdivision (b), shall be in violation of ~~any provision of~~ this code or any applicable wage order of the commission by instituting, pursuant to an agreement voluntarily executed by the employer and at least two-thirds of the affected employees before the performance of the work, a regularly scheduled workweek ~~which~~ *that* includes three working days of not more than 12 hours a day, or regularly scheduled workweeks ~~which~~ *that* include three working days of not more than 12 hours a day one week~~,~~ and four working days of not more than 12

hours a day in the following week~~,~~ for an average workweek of 42 hours over a two-week period.

(b) For purposes of this section only, a "preexisting workweek arrangement" is defined as, and limited to, a workweek arrangement that existed before November 1980, and had to be ~~modifed~~ *modified* or abandoned by an employer because the workweek arrangement did not qualify for any exemption provided by the Industrial Welfare Commission from its daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable commission order.

(c) The agreement described in subdivision (a) shall be confirmed by an affirmative vote by secret ballot by at least two-thirds of the affected employees, and may be rescinded at any time by a two-thirds vote of the affected employees. A new vote on whether the agreement described in subdivision (a) shall be continued shall be held every three years, and an affirmative vote by at least two-thirds of the affected employees shall be necessary to continue the agreement.

(d) The employer shall not be required to pay premium wage rates to employees working a schedule described in subdivision (a) unless the employee is required or permitted to work more than 12 hours in any workday, more than the scheduled three or four days in any workweek, or more than 40 hours in any workweek.

(e) This section shall not apply to any employer who is now, or in the future becomes, a party to a collective-bargaining agreement covering employees who would otherwise be covered by this section.

(f) No employee working a schedule described in subdivision (a) shall be required to work more than four consecutive days within seven consecutive days.

SEC. 483. Section 1289 of the Labor Code is amended to read:

1289. (a) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, he or she shall within 15 business days after service of the citation notify the office of the Labor Commissioner ~~which~~ *that* appears on the citation of his or her request for an informal hearing. The Labor Commissioner or the commissioner's deputy or agent shall,

within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed. The decision of the Labor Commissioner shall consist of a notice of findings, findings, and order ~~which~~ *that* shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from that finding to the appropriate superior court, as long as the party agrees to pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within 45 days of service of the notice of findings, findings, and order thereon.

(b) A person to whom a citation has been issued, shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(c) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, a certified copy of the ~~citiation~~ *citation* or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.

(d) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of the findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

SEC. 484. Section 1301 of the Labor Code is amended to read:

1301. *(a)* The provisions of this article concerning the employment of minors, and the civil penalties for violations of ~~such~~ *those* provisions, shall be fully applicable to every person who owns or controls the real property upon which a minor is employed, whether or not ~~such~~ *that* person is the minor's employer, if the minor's employment is for the benefit of ~~such~~ *the* person, and ~~such~~ *the* person has knowingly permitted the violation or continuation of ~~such~~ violations.

(b) The posting of a notice pursuant to Section ~~12781~~ *49140* of the Education Code shall not operate to exempt any person from ~~the provisions of~~ this article.

SEC. 485. Section 1302 of the Labor Code is amended to read:

1302. The attendance supervisor, who is a full-time attendance supervisor performing no other duties, of any county, city and county, or school district in which any place of employment is situated, or the probation officer of ~~such~~ *the* county, may at any time, enter ~~such~~ *the* place of employment for the purpose of examining permits to work or to employ of all minors employed in ~~such~~ *the* place of employment, or for the purpose of investigating violations of ~~the provisions of~~ this article or of Chapter ~~6~~ *2* (commencing with Section ~~12101)~~ *48200),* ~~7~~ *3* (commencing with Section ~~12551)~~ *48400),* or ~~7.5~~ *7* (commencing with Section ~~12765)~~ *49100)* of ~~Division 9~~ *Part 27* of the Education Code. If an attendance supervisor or probation officer is denied entrance to ~~such~~ *the* place of employment, or if any violations of laws relating to the employment of minors are found to exist, the attendance supervisor or probation officer shall report the denial of entrance or the violation to the Labor Commissioner. ~~Such~~ *The* report shall be made within 48 hours and shall be in writing, setting forth the fact that he *or she* has good cause to believe that ~~such~~ *these* laws are being violated in

~~such~~ *the* place of employment, and describing the nature of the violation.

SEC. 486. Section 2686 of the Labor Code is amended to read:

2686. Upon the written request of any manufacturer or contractor, the Conciliation Service of the Department of Industrial Relations shall notify the other party to the dispute of the request for arbitration and shall, within seven days of receipt of ~~such~~ *the* request, appoint an arbitration panel to hear and render a decision regarding the dispute. The panel shall be constituted as follows:

(a) A management level representative from a manufacturer in the general geographic area in which the dispute arises, provided that insofar as ~~posssible such~~ *possible the* manufacturer shall not be a direct competitor of the manufacturer involved in the dispute to be arbitrated. This panel member also shall be selected in accordance with the terms of the written contract.

(b) A representative from the contractors' association whose membership encompasses the general geographic area in which the dispute arises. This panel member also shall be selected in accordance with the terms of the written contract.

(c) A third party to be chosen and agreed upon by the first two *parties to the dispute* from a list of arbitrators provided by the American Arbitration Association. This party shall act as chairperson of the panel.

SEC. 487. Section 2855 of the Labor Code is amended to read:

2855. (a) Except as otherwise provided in subdivision (b), a contract to render personal service, other than a contract of apprenticeship as provided in Chapter 4 (commencing with Section 3070), may not be enforced against the employee beyond seven years from the commencement of service under it. Any contract, otherwise valid, to perform or render service of a special, unique, unusual, extraordinary, or intellectual character, which gives it peculiar value and the loss of which ~~can not~~ *cannot* be reasonably or adequately compensated in damages in an action at law, may nevertheless be enforced against the person contracting to render the service, for a term not to exceed seven years from the commencement of service under it. If the employee voluntarily continues to serve under it beyond that

time, the contract may be referred to as affording a presumptive measure of the compensation.

(b) Notwithstanding subdivision (a):

(1) Any employee who is a party to a contract to render personal service in the production of phonorecords in which sounds are first fixed, as defined in Section 101 of Title 17 of the United States Code, may not invoke the provisions of subdivision (a) without first giving written notice to the employer in accordance with Section 1020 of the Code of Civil Procedure, specifying that the employee from and after a future date certain specified in the notice will no longer render service under the contract by reason of subdivision (a).

(2) Any party to ~~such~~ a contract *described in paragraph (1)* shall have the right to recover damages for a breach of the contract occurring during its term in an action ~~commmenced~~ *commenced* during or after its term, but within the applicable period prescribed by law.

(3) ~~In the event~~ *If* a party to ~~such~~ a contract *described in paragraph (1)* is, or could contractually be, required to render personal service in the production of a specified quantity of the phonorecords and fails to render all of the required service prior to the date specified in the notice provided in paragraph (1), the party damaged by the failure shall have the right to recover damages for each phonorecord as to which that party has failed to render service in an action ~~which~~ *that*, notwithstanding paragraph (2), shall be commenced within 45 days after the date specified in the notice.

SEC. 488. Section 3364 of the Labor Code is amended to read:

3364. Notwithstanding subdivision ~~(d)~~ *(c)* of Section 3352, a volunteer, unsalaried member of a sheriff's reserve in any county who is not deemed an employee of the county under Section 3362.5, shall, upon the adoption of a resolution of the board of supervisors declaring that ~~such a~~ *the* member is deemed an employee of the county for the purposes of this division, ~~shall~~ be entitled to the workers' compensation benefits provided by this division for any injury sustained by him or her while engaged in the performance of any active law enforcement service under the direction and control of the sheriff.

SEC. 489. Section 4753.5 of the Labor Code is amended to read:

4753.5. In any hearing, investigation, or proceeding, the state shall be represented by the Attorney General, or the attorneys of the Department of Industrial Relations, as appointed by the director. Expenses incident to representation, including costs for investigation, medical examinations, ~~and~~ other expert reports, fees for witnesses, and other necessary and proper expenses, but excluding the salary of any of the Attorney General's deputies, shall be reimbursed from the Workers' Compensation Administration Revolving Fund. No witness fees or fees for medical services shall exceed those fees prescribed by the appeals board for the same services in those cases where the appeals board, by rule, has prescribed fees. Reimbursement pursuant to this section shall be in addition to, and in augmentation of, any other appropriations made or funds available for the use or support of the ~~the~~ legal representation.

SEC. 490. Section 5277 of the Labor Code is amended to read:

5277. (a) The arbitrator's findings and award shall be served on all parties within 30 days of submission of the case for decision.

(b) The arbitrator's award shall comply with Section 5313 and shall be filed with the appeals board office pursuant to venue rules published by the appeals board.

(c) The findings of fact, award, order, or ~~decison~~ *decision* of the arbitrator shall have the same force and effect as an award, order, or decision of a workers' compensation judge.

(d) Use of an arbitrator for any part of a proceeding or any issue shall not bind the parties to the use of the same arbitrator for any subsequent issues or proceedings.

(e) Unless all parties agree to a longer period of time, the failure of the arbitrator to submit the decision within 30 days shall result in forfeiture of the arbitrator's fee and shall vacate the submission order and all stipulations.

(f) The presiding workers' compensation judge may submit supplemental proceedings to arbitration pursuant to this part.

SEC. 491. Section 5307.1 of the Labor Code is amended to read:

5307.1. (a) The administrative director, after public hearings, shall adopt and revise periodically an official medical fee schedule that shall establish reasonable maximum fees paid for medical services other than physician services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and goods described in Section 4600 and provided pursuant to this section. Except for physician services, all fees shall be in accordance with the fee-related structure and rules of the relevant Medicare and Medi-Cal payment systems, provided that employer liability for medical treatment, including issues of reasonableness, necessity, frequency, and duration, shall be determined in accordance with Section 4600. Commencing January 1, 2004, and continuing until the time the administrative director has adopted an official medical fee schedule in accordance with the fee-related structure and rules of the relevant Medicare payment systems, except for the components listed in ~~subdivisions (k) and (*l*)~~ *subdivision (j)*, maximum reasonable fees shall be 120 percent of the estimated aggregate fees prescribed in the relevant Medicare payment system for the same class of services before application of the inflation factors provided in subdivision ~~(e)~~ *(g)*, except that for pharmacy services and drugs that are not otherwise covered by a Medicare fee schedule payment for facility services, the maximum reasonable fees shall be 100 percent of fees prescribed in the relevant Medi-Cal payment system. Upon adoption by the administrative director of an official medical fee schedule pursuant to this section, the maximum reasonable fees paid shall not exceed 120 percent of estimated aggregate fees prescribed in the Medicare payment system for the same class of services before application of the inflation factors provided in subdivision ~~(e)~~ *(g)*. Pharmacy services and drugs shall be subject to the requirements of this section, whether furnished through a pharmacy or dispensed directly by the practitioner pursuant to subdivision (b) of Section 4024 of the Business and Professions Code.

(b) In order to comply with the standards specified in subdivision (f), the administrative director may adopt different conversion factors, diagnostic related group weights, and other factors affecting payment amounts from those used in the Medicare payment system, provided estimated aggregate fees do

not exceed 120 percent of the estimated aggregate fees paid for the same class of services in the relevant Medicare payment system.

(c) Notwithstanding subdivisions (a) and (d), the maximum facility fee for services performed in an ambulatory surgical center, or in a hospital outpatient department, may not exceed 120 percent of the fee paid by Medicare for the same services performed in a hospital outpatient department.

(d) If the administrative director determines that a medical treatment, facility use, product, or service is not covered by a Medicare payment system, the administrative director shall establish maximum fees for that item, provided that the maximum fee paid shall not exceed 120 percent of the fees paid by Medicare for services that require comparable resources. If the administrative director determines that a pharmacy service or drug is not covered by a Medi-Cal payment system, the administrative director shall establish maximum fees for that item~~, provided, however, that~~. *However,* the maximum fee paid shall not exceed 100 percent of the fees paid by Medi-Cal for pharmacy services or drugs that require comparable resources.

(e) Prior to the adoption by the administrative director of a medical fee schedule pursuant to this section, for any treatment, facility use, product, or service not covered by a Medicare payment system, including acupuncture services, or, with regard to pharmacy services and drugs, for a pharmacy service or drug that is not covered by a Medi-Cal payment system, the maximum reasonable fee paid shall not exceed the fee specified in the official medical fee schedule in effect on December 31, 2003.

(f) Within the limits provided by this section, the rates or fees established shall be adequate to ensure a reasonable standard of services and care for injured employees.

(g) (1) (A) Notwithstanding any other provision of law, the official medical fee schedule shall be adjusted to conform to any relevant changes in the Medicare and Medi-Cal payment systems no later than 60 days after the effective date of those changes, provided that both of the following conditions are met:

(i) The annual inflation adjustment for facility fees for inpatient hospital services provided by acute care hospitals and for hospital outpatient services shall be determined solely by the

estimated increase in the hospital market basket for the 12 months beginning October 1 of the preceding calendar year.

(ii) The annual update in the operating standardized amount and capital standard rate for inpatient hospital services provided by hospitals excluded from the Medicare prospective payment system for acute care hospitals and the conversion factor for hospital outpatient services shall be determined solely by the estimated increase in the hospital market basket for excluded hospitals for the 12 months beginning October 1 of the preceding calendar year.

(B) The update factors contained in clauses (i) and (ii) of subparagraph (A) shall be applied beginning with the first update in the Medicare fee schedule payment amounts after December 31, 2003.

(2) The administrative director shall determine the effective date of the changes, and shall issue an order, exempt from Sections 5307.3 and 5307.4 and the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section ~~11370)~~ *11340)* of Part 1 of Division 3 of Title 2 of the Government Code), informing the public of the changes and their effective date. All orders issued pursuant to this paragraph shall be published on the Internet Web site of the ~~division~~ *Division* of Workers' Compensation.

(3) For the purposes of this subdivision, the following definitions apply:

(A) "Medicare Economic Index" means the input price index used by the federal Centers for Medicare and Medicaid Services to measure changes in the costs of a providing physician and other services paid under the resource-based relative value scale.

(B) "Hospital market basket" means the input price index used by the federal Centers for Medicare and Medicaid Services to measure changes in the costs of providing inpatient hospital services provided by acute care hospitals that are included in the Medicare prospective payment system.

(C) "Hospital market basket for excluded hospitals" means the input price index used by the federal Centers for Medicare and Medicaid Services to measure changes in the costs of providing inpatient services by hospitals that are excluded from the Medicare prospective payment system.

(h) Nothing in this section shall prohibit an employer or insurer from contracting with a medical provider for reimbursement rates different from those prescribed in the official medical fee schedule.

(i) Except as provided in Section 4626, the official medical fee schedule shall not apply to medical-legal expenses, as that term is defined by Section 4620.

(j) The following Medicare payment system components may not become part of the official medical fee schedule until January 1, 2005:

(1) Inpatient skilled nursing facility care.

(2) Home health agency services.

(3) Inpatient services furnished by hospitals that are exempt from the prospective payment system for general acute care hospitals.

(4) Outpatient renal dialysis services.

(k) Notwithstanding subdivision (a), for the calendar years 2004 and 2005, the existing official medical fee schedule rates for physician services shall remain in effect, but these rates shall be reduced by 5 percent. The administrative director may reduce fees of individual procedures by different amounts, but in no event shall the administrative director reduce the fee for a procedure that is currently reimbursed at a rate at or below the Medicare rate for the same procedure.

(*l*) Notwithstanding subdivision (a), the administrative director, commencing January 1, 2006, shall have the authority, after public hearings, to adopt and revise, no less frequently than biennially, an official medical fee schedule for physician services. If the administrative director fails to adopt an official medical fee schedule for physician services by January 1, 2006, the existing official medical fee schedule rates for physician services shall remain in effect until a new schedule is adopted or the existing schedule is revised.

SEC. 492. Section 5907 of the Labor Code is amended to read:

5907. If, at the time of granting reconsideration, it appears to the satisfaction of the appeals board that no ~~sufficent~~ *sufficient* reason exists for taking further testimony, the appeals board may affirm, rescind, alter, or amend the order, decision, or award made and filed by the appeals board or the workers'

compensation judge and may, without further proceedings, without notice, and without setting a time and place for further hearing, enter its findings, order, decision, or award based upon the record in the case.

SEC. 493. Section 6315.3 of the Labor Code is amended to read:

6315.3. The bureau shall, not later than February 15, annually submit to the division for submission to the director a report on the activities of the bureau, including, but not limited to, the following:

(a) Totals of each type of report provided the bureau under each category in subdivision (b) of Section 6315.

(b) Totals of each type of case reflecting the number of investigations and court cases in progress at the start of the calendar year being reported, investigations completed in the calendar year, cases referred to appropriate prosecuting authorities in the calendar year, and investigations and court cases in progress at the end of the calendar year. The types of cases shall include the following:

(1) Those ~~in which~~ *that* the bureau is required to investigate, divided into fatalities, serious injuries to five or more employees, and requests for prosecution from a division representative.

(2) Those ~~which~~ *that* were initiated by the bureau following the review required in subdivision (a) of Section 6315, divided into serious injuries to fewer than five employees and serious exposures.

(c) A summary of the dispositions in the calendar year of cases referred by the bureau to ~~apropriate~~ *appropriate* prosecuting authorities. The summary shall be divided into the types of cases, as described in subdivision (b), and shall show at least the violation, the statute for which the case was referred for prosecution, and the dates of referral to the bureau for investigation, referral from the bureau for prosecution, and the final court action if the case was prosecuted.

(d) A summary of investigations completed in the calendar year ~~which~~ *that* did not result in a referral for prosecution, divided into the types of cases as described in subdivision (b), showing the violation~~,~~ and the reasons for nonreferral.

(e) A summary of the use of the bureau's resources in accomplishing the bureau's mission.

SEC. 494. Section 7384 of the Labor Code is amended to read:

7384. The division shall prepare an annual report concerning revenues obtained from all funding sources and expenditures. The division shall file the report with the Legislative Analyst, the Joint Legislative Audit ~~Commitee~~ *Committee*, the Department of Finance, and the appropriate policy committees of the Legislature.

SEC. 495. Section 7994 of the Labor Code is amended to read:

7994. Any person holding an "explosive blaster's license" who is convicted of violating safety orders involving use or handling of explosives in which the violation is judged to be responsible for an accident involving serious injury or death shall have his *or her* license revoked for ~~a~~ *at* least one year, in addition to any other penalties he *or she* may be assessed. Any person who has had his *or her* "explosive blaster's license" revoked may apply for a new license after the minimum period of revocation expires. He *or she* shall be required to pass all examinations before a new license is granted.

SEC. 496. Section 340 of the Military and Veterans Code is amended to read:

340. (a) Subject to Section 340.1, whenever any officer, warrant officer, or enlisted member of the California National Guard, the organized militia, or the unorganized militia, when called into the active service of the state, pursuant to ~~Sections~~ *Section* 142, 143, or 146, is wounded, injured, disabled, or killed in the active service of the state in the line of duty, the member or the member's dependents shall receive compensation under Division 4 (commencing with Section 3201) of the Labor Code. For these purposes, the member is deemed to be an employee of the state. The compensation shall be based on the member's average income from all sources during the year immediately preceding the date of wounding, injury, ~~or~~ death, or the commencement of disability and shall not exceed the maximum prescribed in Division 4 *(commencing with Section 3201)* of the Labor Code.

(b) For the purposes of this article, any officer, warrant officer, or enlisted member performing military duty of any nature pursuant to Title 32 or Title 10 of the United States Code shall

not be entitled to benefits described in subdivision (a) or in Section ~~3401.1.~~ *340.1*.

(c) Notwithstanding subdivision (a), any officer, warrant officer, or enlisted member on full-time active duty with the Office of the Adjutant General who suffers disability or death in the line of duty from either injury or disease is entitled to receive, from the state, benefits or compensation for that disability or death comparable to that provided to members of the United States armed forces on active duty.

SEC. 497. Section 171d of the Penal Code is amended to read:

171d. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, *a* full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, ~~or~~ any person summoned by ~~any such~~ *that* officer to assist in making arrests or preserving the peace while he *or she* is actually engaged in assisting ~~such~~ *the* officer, ~~or~~ a member of the military forces of this state or of the United States engaged in the performance of his *or her* duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 ~~of the Penal Code~~, ~~or~~ the Governor or a member of his *or her* immediate family or a person acting with his *or her* permission with respect to the Governor's Mansion or any other residence of the Governor, any other constitutional officer or a member of his *or her* immediate family or a person acting with his *or her* permission with respect to ~~such~~ *the* officer's residence, or a Member of the Legislature or a member of his *or her* immediate family or a person acting with his *or her* permission with respect to ~~such legislator's~~ *the Member's* residence, shall be punished by imprisonment in ~~the~~ *a* county jail for not more than one year, ~~or~~ by fine of not more than one thousand dollars ~~($1000)~~ *($1,000)*, or by both ~~such~~ *the* fine and imprisonment, or by imprisonment in the state prison, if he *or she* does any of the following:

~~1.~~

(a) Brings a loaded firearm into, or possesses a loaded firearm within, the Governor's Mansion, or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

~~2.~~

(b) Brings a loaded firearm upon, or possesses a loaded firearm upon, the grounds of the Governor's Mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

SEC. 498. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of this chapter, the following definitions apply:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 550.

(21) False or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code.

(22) Money laundering, as defined in Section 186.10.

(23) Offenses relating to the counterfeit of a registered mark, as specified in Section 350.

(24) Offenses relating to the unauthorized access to computers, computer systems, and computer data, as specified in Section 502.

(25) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(26) Subdivision (a) of Section 186.22, or a felony subject to enhancement as specified in subdivision (b) of Section 186.22.

(27) Any offenses related to fraud or theft against the state's beverage container recycling program, including, but not limited to, those offenses specified in this subdivision and those criminal offenses specified in the California Beverage Container Recycling and Litter Reduction Act, commencing at Section 14500 of the Public Resources Code.

(28) Human trafficking, as defined in Section 236.1.

(29) Theft of personal identifying information, as defined in Section 530.5.

(b) *(1)* "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this ~~act~~ *chapter*, that meet the following requirements:

~~(1)~~

(A) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics.

~~(2)~~

(B) Are not isolated events.

~~(3)~~

(C) Were committed as a criminal activity of organized crime.

(2) Acts that would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to

seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods and services such as narcotics, prostitution, loan-sharking, gambling, and pornography, or that, through planning and coordination of individual efforts, seeks to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, fraud against the beverage container recycling program, or systematically encumbering the assets of a business for the purpose of defrauding creditors. "Organized crime" also means crime committed by a criminal street gang, as defined in subdivision (f) of Section 186.22. "Organized crime" also means false or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code, and the theft of ~~person~~ *personal* identifying information, as defined in Section 530.5.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 499. Section 273.7 of the Penal Code is amended to read:

273.7. (a) Any person who maliciously publishes, disseminates, or otherwise discloses the location of any trafficking shelter or domestic violence shelter or any place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.

(b) (1) For purposes of this section, "domestic violence shelter" means a confidential location ~~which~~ *that* provides emergency housing on a 24-hour basis for victims of sexual assault, spousal abuse, or both, and their families.

(2) For purposes of this section, "trafficking shelter" means a confidential location ~~which~~ *that* provides emergency housing on a 24-hour basis for victims of human trafficking, including any person who is a victim under Section 236.1.

(3) Sexual assault, spousal abuse, or both, ~~includes~~ *include,* but ~~is~~ *are* not limited to, those crimes described in Sections 240, 242, 243.4, 261, 261.5, 262, 264.1, 266, 266a, 266b, 266c, 266f, 273.5, 273.6, 285, 288, and 289.

(c) Nothing in this section shall apply to confidential communications between an attorney and his or her client.

SEC. 500. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides.

(B) If the person who is registering has more than one residence address at which he or she regularly resides, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides, regardless of the number of days or nights spent there. If all of the addresses are within the same jurisdiction, the person shall provide the registering authority with all of the addresses where he or she regularly resides.

(C) Every person described in paragraph (2), for the rest of his or her life while living as a transient in California, shall be required to register, as follows:

(i) A transient must register, or reregister if the person has previously registered, within five working days from release from incarceration, placement, or commitment, or release on probation, pursuant to paragraph (1) of subdivision (a), except that if the person previously registered as a transient less than 30

days from the date of his or her release from incarceration, he or she does not need to reregister as a transient until his or her next required 30-day update of registration. If a transient is not physically present in any one jurisdiction for five consecutive working days, he or she must register in the jurisdiction in which he or she is physically present on the fifth working day following release, pursuant to paragraph (1) of subdivision (a). Beginning on or before the 30th day following initial registration upon release, a transient must reregister no less than once every 30 days thereafter. A transient shall register with the chief of police of the city in which he or she is physically present within that 30-day period, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, and additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is physically present upon the campus or in any of its facilities. A transient must reregister no less than once every 30 days regardless of the length of time he or she has been physically present in the particular jurisdiction in which he or she reregisters. If a transient fails to reregister within any 30-day period, he or she may be prosecuted in any jurisdiction in which he or she is physically present.

(ii) A transient who moves to a residence shall have five working days within which to register at that address, in accordance with subparagraph (A) of paragraph (1) of subdivision (a). A person registered at a residence address in accordance with subparagraph (A) of paragraph (1) of subdivision (a), who becomes transient shall have five working days within which to reregister as a transient in accordance with clause (i).

(iii) Beginning on his or her first birthday following registration, a transient shall register annually, within five working days of his or her birthday, to update his or her registration with the entities described in clause (i). A transient shall register in whichever jurisdiction he or she is physically present on that date. At the 30-day updates and the annual update, a transient shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of

paragraph (2) of subdivision (e), and the information specified in clause (iv).

(iv) A transient shall, upon registration and reregistration, provide current information as required on the Department of Justice registration forms, and shall also list the places where he or she sleeps, eats, works, frequents, and engages in leisure activities. If a transient changes or adds to the places listed on the form during the 30-day period, he or she does not need to report the new place or places until the next required reregistration.

(v) Failure to comply with the requirement of reregistering every 30 days following initial registration pursuant to clause (i) of this subparagraph shall be punished in accordance with paragraph (6) of subdivision (g). Failure to comply with any other requirement of this section shall be punished in accordance with either paragraph (1) or (2) of subdivision (g).

(vi) A transient who moves out of state shall inform, in person, the chief of police in the city in which he or she is physically present, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, within five working days, of his or her move out of state. The transient shall inform that registering agency of his or her planned destination, residence, or transient location out of state, and any plans he or she has to return to California, if known. The law enforcement agency shall, within three days after receipt of this information, forward a copy of the change of location information to the Department of Justice. The department shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence or location.

(vii) For purposes of this section, “transient” means a person who has no residence. “Residence” means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

(viii) The transient registrant’s duty to update his or her registration no less than every 30 days shall begin with his or her second transient update following the date this subdivision became effective.

(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e).

(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000. ~~The terms "employed or carries on a vocation" include~~

"Employed" or "carrying on a vocation" includes employment whether or not financially compensated, volunteered, or performed for government or educational benefit.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, Section 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(D) (i) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state,

federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(ii) Any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(iii) Except as provided in clause (iv), any person who would be required to register while residing in the state of conviction for a sex offense committed in that state.

(iv) Clause (iii) shall not apply to a person required to register in the state of conviction if the conviction was for the equivalent of one of the following offenses, and the person is not subject to clause (i):

(I) Indecent exposure, pursuant to Section 314.

(II) Unlawful sexual intercourse, pursuant to Section 261.5.

(III) Incest, pursuant to Section 285.

(IV) Sodomy, pursuant to Section 286, or oral copulation, pursuant to Section 288a, provided that the offender notifies the Department of Justice that the sodomy or oral copulation conviction was for conduct between consenting adults, as described in subparagraph (F) of paragraph (2) of subdivision (a), and the department is able, upon the exercise of reasonable diligence, to verify that fact.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(F) Any person required to register pursuant to any provision of this section, regardless of whether the person’s conviction has been dismissed pursuant to Section 1203.4, unless the person obtains a certificate of rehabilitation and is entitled to relief from registration pursuant to Section 290.5.

(G) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register

pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, that demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized~~; or~~.

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose

claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official shall at the same time forward a current photograph of the person to the Department of Justice.

(2) The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the

person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement or hospital shall retain one copy.

(c) (1) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation, shall, prior to release or discharge, be informed of the duty to register under this section by the probation department, and a probation officer shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The probation officer shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The probation officer shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(2) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is granted conditional release without supervised probation, or discharged upon payment of a fine, shall, prior to release or discharge, be informed of the duty to register under this section in open court by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. If the court finds that it is in the interest of the efficiency of the court, the court may assign the bailiff to require the person to read and sign forms under this section. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the

form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who is discharged or paroled from a facility in another state that is equivalent to the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities*, to the custody of which he or she was committed because of an offense ~~which~~ *that*, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities*, any person who is subject to registration under this subdivision shall be informed of the duty to register under the procedures set forth in this section. ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* officials shall transmit the required forms and information to the Department of Justice.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of all of the following:

(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.

(B) The fingerprints and a current photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to paragraph (1) of subdivision (a). The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person’s employer, and the address of the person’s place of employment if that is different from the employer’s main address.

(B) The fingerprints and a current photograph of the person taken by the registering official.

(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.

(3) Within three days thereafter, the preregistering official or the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) (1) (A) Any person who was last registered at a residence address pursuant to this section who changes his or her residence address, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, shall, in person, within five working days of the move, inform the law enforcement agency or agencies with which he or she last registered of the move, the new address or transient location, if known, and any plans he or she has to return to California.

(B) If the person does not know the new residence address or location at the time of the move, the registrant shall, in person, within five working days of the move, inform the last registering agency or agencies that he or she is moving. The person shall later notify the last registering agency or agencies, in writing, sent by certified or registered mail, of the new address or location within five working days of moving into the new residence address or location, whether temporary or permanent.

(C) The law enforcement agency or agencies shall, within three working days after receipt of this information, forward a copy of the change of address information to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence .

(2) If the person's new address is in a ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three working days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraphs (5), (7), and (9), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be

punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(4) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(5) Any person who has ever been adjudicated *as* a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) Except as otherwise provided in paragraph (5), any person who is required to register or reregister pursuant to clause (i) of subparagraph (C) of paragraph (1) of subdivision (a) and willfully fails to comply with the requirement that he or she reregister no less than every 30 days is guilty of a misdemeanor and shall be punished by imprisonment in a county jail at least 30 days, but not exceeding six months. A person who willfully fails to comply with the requirement that he or she reregister no less than every 30 days shall not be charged with this violation more often than once for a failure to register in any period of 90 days. Any person who willfully commits a third or subsequent violation of the requirements of subparagraph (C) of paragraph (1) of subdivision (a) that he or she reregister no less than every 30 days shall be punished in accordance with either paragraph (1) or (2) of this subdivision.

(7) Any person who fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense as to each requirement he or she violated.

(9) In addition to any other penalty imposed under this subdivision, the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is a crime punishable by imprisonment in a county jail for a period not exceeding one year.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the ~~Youthful Offender Parole~~ Board *of Parole Hearings*, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as otherwise provided by law, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a

regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county, including firefighting, disaster control, or ~~of~~ whatever ~~nature~~ the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to 5 working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) The registration provisions of this section are applicable to every person described in this section, without regard to when his or her crime or crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.

SEC. 501. Section 290.6 of the Penal Code is amended to read:

290.6. (a) Fifteen days before the scheduled release date of a person described in subdivision (b), the Department of Corrections *and Rehabilitation* shall provide to local law enforcement all of the following information regarding the person:

(1) Name.

(2) Community residence and address, including ZIP Code.

(3) Physical description.

(4) Conviction information.

(b) This subdivision shall apply to any person sentenced to the state prison who is required to register pursuant to Section 290 for a conviction of an offense specified in subdivision (b), (c), or (d) of Section 290.46 and to any person described in those subdivisions.

(c) For the purpose of this section, "law enforcement" includes any agency with which the person will be required to register upon his or her release pursuant to Section 290 based upon the person's community of residence upon release.

(d) If it is not possible for the Department of Corrections *and Rehabilitation* to provide the information specified in subdivision (a) on a date that is 15 days before the scheduled release date, the information shall be provided on the next business day following that date.

(e) The Department of Corrections *and Rehabilitation* shall notify local law enforcement within 36 hours of learning of the change if the scheduled release date or any of the required information changes prior to the scheduled release date.

SEC. 502. Section 652 of the Penal Code is amended to read:

652. (a) It shall be an infraction for any person to perform or offer to perform body piercing upon a person under the age of 18 years, unless the body piercing is performed in the presence of, or as directed by a notarized writing by, the person's parent or guardian.

(b) This section does not apply to the body piercing of an emancipated minor.

(c) As used in this section, "body piercing" means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration, including, but not limited

to, the piercing of a~~,~~ lip, tongue, nose, or eyebrow. "Body piercing" does not include the piercing of an ear.

(d) Neither the minor upon whom the body piercing was performed, nor the parent or guardian of that minor, nor any other minor is liable for punishment under this section.

SEC. 503. Section 987.9 of the Penal Code is amended to read:

987.9. (a) In the trial of a capital case or a case under subdivision (a) of Section 190.05, the indigent defendant, through the defendant's counsel, may request the court for funds for the specific payment of investigators, experts, and others for the preparation or presentation of the defense. The application for funds shall be by affidavit and shall specify that the funds are reasonably necessary for the preparation or presentation of the defense. The fact that an application has been made shall be confidential and the contents of the application shall be confidential. Upon receipt of an application, a judge of the court, other than the trial judge presiding over the case in question, shall rule on the reasonableness of the request and shall disburse an appropriate amount of money to the defendant's attorney. The ruling on the reasonableness of the request shall be made at an in camera hearing. In making the ruling, the court shall be guided by the need to provide a complete and full defense for the defendant.

(b) *(1)* The Controller shall not reimburse any county for costs that exceed~~ Board of Control~~ *California Victim Compensation and Government Claims Board* standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient documentation of the need for those expenditures.

(2) At the termination of the proceedings, the attorney shall furnish to the court a complete accounting of all moneys received and disbursed pursuant to this section.

(c) The Controller shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, controlling reimbursements under this section. The regulations shall consider compensation for investigators, expert witnesses, and other expenses that may or may not be reimbursable pursuant to this section. Notwithstanding the provisions of Chapter 3.5 (commencing

with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Controller shall follow any regulations adopted until final approval by the Office of Administrative Law.

(d) The confidentiality provided in this section shall not preclude any court from providing the Attorney General with access to documents protected by this section when the defendant raises an issue on appeal or collateral review where the recorded portion of the record, created pursuant to this section, relates to the issue raised. When the defendant raises that issue, the funding records, or relevant portions thereof, shall be provided to the Attorney General at the Attorney General's request. In ~~such a~~ *this* case, the documents shall remain under seal and their use shall be limited solely to the pending proceeding.

SEC. 504. Section 1037.1 of the Penal Code is amended to read:

1037.1. (a) Change of venue costs, as defined in Section 1037, that are court operations, as defined in Section 77003 of the Government Code and Rule 810 of the California Rules of Court, shall be considered court costs to be charged against and paid by the transferring court to the receiving court.

(b) The Judicial Council shall adopt financial policies and procedures to ensure the timely payment of court costs pursuant to this section. The policies and procedures shall include, but are not limited to, *both of* the following:

(1) The requirement that courts approve a budget and a timeline for reimbursement before the beginning of the trial.

(2) A process for the Administrative Office of the Courts to mediate any disputes regarding costs between transferring and receiving courts.

(c) (1) The presiding judge of the transferring court, or his or her designee, shall authorize the payment for the reimbursement of court costs out of the court operations fund of the transferring court.

(2) Payments for the reimbursement of court costs shall be deposited into the court operations fund of the receiving court.

SEC. 505. Section 1191.2 of the Penal Code is amended to read:

1191.2. In providing notice to the victim pursuant to Section 1191.1, the probation officer shall also provide the victim with information concerning the victim's right to civil recovery

against the defendant, the requirement that the court order restitution for the victim, the victim's right to receive a copy of the restitution order from the court and to enforce the restitution order as a civil judgment, the victim's responsibility to furnish the probation department, district attorney, and court with information relevant to his or her losses, and the ~~victims'~~ *victim's* opportunity to be compensated from the Restitution Fund if eligible under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. This information shall be in the form of written material prepared by the Judicial Council in consultation with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*, shall include the relevant sections of the Penal Code, and shall be provided to each victim for whom the probation officer has a current mailing address.

SEC. 506. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203 or any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who is convicted of violating Section 288 or 288.5 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288 or 288.5.

(3) A person who is convicted of a violation of Section 288 or 288.5 and who was a stranger to the child victim or befriended the child victim for the purpose of committing an act in violation of Section 288 or 288.5, unless the defendant honestly and reasonably believed the victim was 14 years of age or older.

(4) A person who used a weapon during the commission of a violation of Section 288 or 288.5.

(5) A person who is convicted of committing a violation of Section 288 or 288.5 and who has been previously convicted of a violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286, 288, 288.5, 288a, or 289, or of assaulting another person with

intent to commit a crime specified in this paragraph in violation of Section 220, or who has been previously convicted in another state of an offense which, if committed or attempted in this state, would constitute an offense enumerated in this paragraph.

(6) A person who violated Section 288 or 288.5 while kidnapping the child victim in violation of Section 207, 209, or 209.5.

(7) A person who is convicted of committing a violation of Section 288 or 288.5 against more than one victim.

(8) A person who, in violating Section 288 or 288.5, has substantial sexual conduct with a victim who is under 14 years of age.

(9) A person who, in violating Section 288 or 288.5, used obscene matter, as defined in Section 311, or matter, as defined in Section 311, depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) (1) Except for a violation of subdivision (b) of Section 288, this section shall only apply if the existence of any fact required in subdivision (a) is alleged in the accusatory pleading and is either admitted by the defendant in open court, or found to be true by the trier of fact.

(2) For the existence of any fact under paragraph (7) of subdivision (a), the allegation must be made pursuant to this section.

(d) (1) If a person is convicted of a violation of Section 288 or 288.5, and the factors listed in subdivision (a) are not pled or proven, probation may be granted only if the following terms and conditions are met:

(A) If the defendant is a member of the victim's household, the court finds that probation is in the best interest of the child victim.

(B) The court finds that rehabilitation of the defendant is feasible and that the defendant is amenable to undergoing treatment, and the defendant is placed in a recognized treatment program designed to deal with child molestation immediately

after the grant of probation or the suspension of execution or imposition of sentence.

(C) If the defendant is a member of the victim's household, probation shall not be granted unless the defendant is removed from the household of the victim until the court determines that the best interests of the victim would be served by his or her return. While removed from the household, the court shall prohibit contact by the defendant with the victim, with the exception that the court may permit supervised contact, upon the request of the director of the court-ordered supervised treatment program, and with the agreement of the victim and the victim's parent or legal guardian, other than the defendant.

(D) The court finds that there is no threat of physical harm to the victim if probation is granted.

(2) The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

(3) The court shall order the psychiatrist or psychologist who is appointed pursuant to Section 288.1 to include a consideration of the factors specified in subparagraphs (A), (B), and (C) *of paragraph (1)* in making his or her report to the court.

(4) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon ability to pay.

(5) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(e) As used in subdivision (d), the following definitions apply:

(1) "Contact with the victim" includes all physical contact, being in the presence of the victim, communicating by any means, including by a third party acting on behalf of the defendant, or sending any gifts.

(2) "Recognized treatment program" means a program that consists of the following components:

(A) Substantial expertise in the treatment of child sexual abuse.

(B) A treatment regimen designed to specifically address the offense.

(C) The ability to serve indigent clients.

(D) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program, or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

SEC. 507. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing ~~their~~ *them from* being discovered.

(4) When the property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered

them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or any evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(b) The property ~~or~~, things ~~or~~, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person~~,~~ who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) *(A)* If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make any motions or present any evidence. The hearing shall be held within three days of the service of the warrant unless the

court makes a finding that the expedited hearing is impracticable. In that case the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d) *(1)* As used in this section, a "special master" is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Any information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party

serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, "documentary evidence" includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films ~~or~~, *and* papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney's ability to request an in camera hearing pursuant to the holding of the Supreme Court of California in People v. Superior Court (Laff) (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute any evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

SEC. 508. Section 1557 of the Penal Code is amended to read:

1557. (a) This section shall apply when this state~~,~~ or a city, county, or city and county employs a person to travel to a foreign jurisdiction outside this state for the express purpose of returning

a fugitive from justice to this state when the Governor of this state, in the exercise of the authority conferred by Section 2~~,~~ *of* Article IV~~,~~ of the ~~Constitution of the~~ United States *Constitution*, or by the laws of this state, has demanded the surrender of ~~such~~ *the* fugitive from the executive authority of any state of the United States, or of any foreign government.

(b) Upon the approval of the Governor, the State Controller shall audit and pay out of the State Treasury as provided in subdivision (c) or (d) the accounts of the person employed to bring back ~~such~~ *the* fugitive, including any money paid by ~~such~~ *that* person for all of the following:

(1) Money paid to the authorities of a sister state for statutory fees in connection with the detention and surrender of ~~such~~ *the* fugitive.

(2) Money paid to the authorities of the sister state for the subsistence of the fugitive while detained by ~~such~~ *the* sister state without payment of which~~,~~ the authorities of ~~such~~ *the sister* state refuse to surrender ~~such~~ *the* fugitive.

(3) Where it is necessary to present witnesses or evidence in the sister state, without which the sister state would not surrender the fugitive, the cost of producing ~~such~~ *the* witnesses or evidence in the sister state.

(4) Where the appearance of witnesses has been authorized in advance by the Governor, who may authorize ~~such~~ *the* appearance in unusual cases where the interests of justice would be served, the cost of producing witnesses to appear in the sister state on behalf of the fugitive in opposition to his *or her* extradition.

(c) No amount shall be paid out of the State Treasury to a city, county, or city and county except as ~~specified herein. (1) When~~ *follows:*

(1) When a warrant has been issued by any magistrate after the filing of a complaint or the finding of an indictment and its presentation to the court and filing by the clerk, and the person named therein as defendant is a fugitive from justice~~,~~ who has been found and arrested in any state of the United States or in any foreign government, the county auditor shall draw his *or her* warrant and the county treasurer shall pay to the person designated to return the fugitive, the amount of expenses

estimated by the district attorney to be incurred in the return of ~~such~~ *the* fugitive.

(2) If the person designated to return the fugitive is a city officer, the city officer authorized to draw warrants on the city treasury shall draw his *or her* warrant and the city treasurer shall pay to ~~such~~ *that* person the amount of expenses estimated by the district attorney to be incurred in the return of ~~such~~ *the* fugitive.

(3) The person designated to return the fugitive shall make no disbursements from any ~~such fund so~~ *funds* advanced without a receipt being obtained therefor showing the amount, the purpose for which the sum is expended, *the* place, *the* date, and to whom paid.

(4) ~~Such receipts must~~ *A receipt obtained pursuant to paragraph (3) shall* be filed by ~~such~~ *the* person *designated to return the fugitive* with the county auditor or appropriate city officer or State Controller, as the case may be, together with an affidavit by ~~such~~ *the* person that the expenditures represented by the receipts were necessarily made in the performance of duty, and when ~~such~~ *the* advance has been made by the county or city treasurer to the person designated to return the fugitive, and has thereafter been audited by the State Controller, the payment thereof shall be made by the State Treasurer to the county or city treasury~~, which~~ *that* has advanced the funds.

(5) In every case where the expenses of ~~such~~ *the* person ~~so~~ employed to bring back ~~such~~ *the* fugitive as ~~herein~~ provided *in this section*, are less than the amount advanced on the recommendation of the district attorney, ~~such persons so~~ *the person* employed to bring back ~~such~~ *the* fugitive shall return to the county or city treasurer, as appropriate, the difference in amount between the aggregate amount of receipts so filed by him *or her*, as herein employed, and the amount advanced to ~~such~~ *the* person upon the recommendation of the district attorney.

(6) When no advance has been made to the person designated to return the fugitive, the sums expended by him *or her*, when audited by the State Controller, shall be paid by the State Treasurer to the person so designated.

(7) Any payments made out of the State Treasury pursuant to ~~the provisions of~~ this section shall be made from appropriations for the fiscal year in which ~~such~~ *those* payments are made.

(d) Payments to state agencies will be made in accord with the rules of the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 509. Section 2786 of the Penal Code is amended to read:

2786. All money in ~~said fund~~ *the Inmate Welfare Fund of the Department of Corrections* is hereby appropriated for educational and recreational purposes at the various prison camps established under this article and shall be expended by the director upon warrants drawn upon the State Treasury by the State Controller after approval of the claims by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 510. Section 2800 of the Penal Code is amended to read:

2800. Commencing July 1, 2005, there is hereby continued in existence within the Department of Corrections and Rehabilitation the Prison Industry Authority. As used in this article, "authority" means the Prison Industry Authority. Commencing July 1, 2005, any reference to the Department of Corrections shall refer to the Department of Corrections and Rehabilitation.

SEC. 511. Section 3003 of the Penal Code is amended to read:

3003. (a) *(1)* Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration.

(2) For purposes of this subdivision, "last legal residence" shall not be construed to mean the county wherein the inmate committed an offense while confined in ~~a~~ *the* state prison or *a* local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of ~~Prison Terms~~ *Parole Hearings* setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections *and Rehabilitation* setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to

another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections *and Rehabilitation*, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections *and Rehabilitation* to local law enforcement agencies regarding a paroled inmate who is released in their jurisdictions:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the parolee's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(2) The information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other provision of law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of ~~Prison Terms~~ *Parole Hearings* or

the Department of Corrections *and Rehabilitation* finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(g) (1) Notwithstanding any other law, an inmate who is released on parole for any violation of Section 288 or 288.5 shall not be placed or reside, for the duration of his or her period of parole, within one-quarter mile of any public or private school, including any or all of kindergarten and grades 1 to 8, inclusive.

(2) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-half mile of any public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole for an offense involving stalking shall not be returned to a location within 35 miles of the victim's actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of ~~Prison Terms~~ *Parole Hearings* or the Department of Corrections *and Rehabilitation* finds that there is a need to protect the life, safety, or well-being of the victim.

(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(j) An inmate may be paroled to another state pursuant to any other law.

(k) (1) Except as provided in paragraph (2), the Department of Corrections *and Rehabilitation* shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e).

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

SEC. 512. Section 4017.1 of the Penal Code is amended to read:

4017.1. (a) (1) Except as provided in paragraph (2), any person confined in a county jail, industrial farm, road camp, or city jail who is required or permitted by an order of the board of supervisors or city council to perform work, and any person while performing community service in lieu of a fine or custody~~,~~ or who is assigned to work furlough, may not be employed to perform any function that provides access to personal information of private individuals, including, but not limited to, *the following*: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers' maiden names; demand deposit account, debit card, credit card, savings *account*, or checking account numbers, PINs, or passwords; social security numbers; places of employment; dates of birth;~~ state~~ *state-* or~~ government issued~~ *government-issued* driver's license or identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

(2) Notwithstanding paragraph (1), persons assigned to work furlough programs may be permitted to work in situations that allow them to retain or look at a driver's license or credit card for no longer than the period of time needed to complete an immediate transaction. However, no person assigned to work furlough shall be placed in any position that may require the deposit of a credit card or driver's license as insurance or surety.

(b) Any person confined in a county jail, industrial farm, road camp, or city jail who has access to any personal information shall disclose that he or she is confined before taking any personal information from anyone.

(c) This section shall not apply to inmates in employment programs or public service facilities where incidental contact with personal information may occur.

SEC. 513. Section 4900 of the Penal Code is amended to read:

4900. Any person who, having been convicted of any crime against the~~ State of California~~ *state* amounting to a felony~~,~~ and ~~having been~~ imprisoned~~ therefor~~ in~~ a State~~ *the state* prison~~ of this State shall hereafter be~~ *for that conviction, is* granted a pardon by

the Governor ~~of this State~~ for the reason that the crime with which he *or she* was charged was either not committed at all or, if committed, was not committed by him *or her*, or who, being innocent of the crime with which he *or she* was charged for either of the foregoing reasons, shall have served the term or any part thereof for which he *or she* was imprisoned, may, under the conditions ~~hereinafter~~ provided *under this chapter*, present a claim against the ~~State~~ *state* to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for the pecuniary injury sustained by him *or her* through ~~such~~ *the* erroneous conviction and imprisonment.

SEC. 514. Section 4901 of the Penal Code is amended to read:

4901. ~~Such~~ *A* claim *under Section 4900*, accompanied by a statement of the facts constituting the claim, verified in the manner provided for the verification of complaints in civil actions, must be presented by the claimant to the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* within a period of six months after judgment of acquittal or discharge given, or after pardon granted, or after release from imprisonment, and at least four months prior to the next meeting of the Legislature ~~of this State;~~ and no claim not so presented shall be considered ~~by the Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 515. Section 4902 of the Penal Code is amended to read:

4902. Upon presentation of ~~any such~~ *a* claim *under Section 4900*, the ~~Board of Control~~ *California Victim Compensation and Government Claims Board* shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General ~~of this State~~ at least 15 days prior to the time fixed for ~~such~~ *the* hearing.

SEC. 516. Section 4904 of the Penal Code is amended to read:

4904. If the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant did not, by any act or omission either intentionally or negligently, contribute to the bringing about of his or her arrest or conviction, and that the claimant has sustained pecuniary

injury through his or her erroneous conviction and imprisonment, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall report the facts of the case and its conclusions to the next Legislature ~~of this state~~, with a recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury~~; but the~~. *The* amount of the appropriation recommended shall be a sum equivalent to one hundred dollars ($100) per day of incarceration served subsequent to the claimant's conviction and that appropriation shall not be treated as gross income to the recipient under the ~~provisions of the~~ Revenue and Taxation Code.

SEC. 517. Section 4905 of the Penal Code is amended to read:

4905. The ~~Board of Control~~ *California Victim Compensation and Government Claims Board* shall make up its report and recommendation and shall give to the Controller ~~of this State~~ a statement showing its recommendations for appropriations under ~~the provisions of~~ this chapter, as provided by law in cases of other claimants against ~~this State~~ *the state* for which no appropriations have been made.

SEC. 518. Section 4906 of the Penal Code is amended to read:

4906. The ~~Board of Control~~ *California Victim Compensation and Government Claims Board* is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect ~~the provisions of~~ this chapter.

SEC. 519. Section 5001 of the Penal Code is amended to read:

5001. ~~(a)~~ The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide lists of persons qualified for appointment pursuant to Article 14 (commencing with Section 12838) of Chapter 1 of Part 2.5 of Division 3 of the Government Code. The Governor may appoint any person from the lists of qualified persons or may reject all names and appoint other persons who meet the requirements of the positions.

SEC. 520. Section 5009 of the Penal Code is amended to read:

5009. (a) It is the intention of the Legislature that all prisoners shall be afforded reasonable opportunities to exercise religious freedom.

(b) (1) Except in extraordinary circumstances, upon the transfer of an inmate to another state prison institution, any member of the clergy or spiritual adviser who has been previously authorized by the Department of Corrections *and Rehabilitation* to visit that inmate shall be granted visitation privileges at the institution to which the inmate is transferred within 72 hours of the transfer.

(2) Visitations by members of the clergy or spiritual advisers shall be subject to the same rules, regulations, and policies relating to general visitations applicable at the institution to which the inmate is transferred.

(3) A departmental or volunteer chaplain who has ministered to or advised an inmate incarcerated in state prison may, voluntarily and without compensation, continue to minister to or advise the inmate while he or she is on parole, provided that the departmental or volunteer chaplain so notifies the warden and the parolee's parole agent in writing.

(c) Nothing in this section limits the department's ability to prohibit a departmental chaplain from ministering to a parolee, or to exclude a volunteer chaplain from department facilities, if either is found to be in violation of any law or regulation and that violation would ordinarily be grounds for adverse action or denial of access to a facility or person under the department's custody.

SEC. 521. Section 5071 of the Penal Code is amended to read:

5071. (a) The Secretary of the Department of Corrections and Rehabilitation shall not assign any prison inmate to employment that provides that inmate with access to personal information of private individuals, including, but not limited to, *the following*: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers' maiden names; demand deposit account, debit card, credit card, savings *account*, or checking account numbers, PINs, or passwords; social security numbers; places of employment; dates of birth; ~~state~~ *state-* or ~~government issued~~ *government-issued* driver's license or identification numbers; alien registration

numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

(b) Any person who is a prison inmate, and who has access to any personal information, shall disclose that he or she is a prison inmate before taking any personal information from anyone.

(c) This section shall not apply to inmates in employment programs or public service facilities where incidental contact with personal information may occur.

SEC. 522. Section 5076.1 of the Penal Code is amended to read:

5076.1. (a) The board shall meet at each of the state prisons and facilities under the jurisdiction of the Division of Juvenile Facilities. Meetings shall be held at whatever times may be necessary for a full and complete study of the cases of all inmates and wards whose matters are considered. Other times and places of meeting may also be designated by the board. Each commissioner of the board shall receive his *or her* actual necessary traveling expenses incurred in the performance of his or her official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least nine members shall be present, and no action shall be valid unless it is concurred in by a majority vote of those present.

(b) The board may use deputy commissioners to whom it may assign appropriate duties, including hearing cases and making decisions. Those decisions shall be made in accordance with policies approved by a majority of the total membership of the board.

(c) The board may meet and transact business in panels. Each panel shall consist of two or more persons, subject to subdivision (d) of Section 3041. No action shall be valid unless concurred in by a majority vote of the persons present. In the event of a tie vote, the matter shall be referred to a randomly selected committee, comprised of a majority of the commissioners specifically appointed to hear adult parole matters and who are holding office at the time.

(d) When determining whether commissioners or deputy commissioners shall hear matters pursuant to subdivision (f) of Section 5075.1, or any other matter submitted to the board involving wards under the jurisdiction of the Division of Juvenile Facilities, the chair shall take into account the degree of complexity of the issues presented by the case. Any decision resulting in the extension of a parole consideration date shall entitle a ward to appeal the decision to a panel comprised of two or more commissioners, of which no more than one may be a deputy commissioner. The panel shall consider and act upon the appeal in accordance with rules established by the board.

(e) Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel of two or more commissioners or deputy commissioners, of which only one may be a deputy commissioner. A recommendation for recall of a sentence under subdivisions (d) and (e) of Section 1170 shall be made by a panel, a majority of whose commissioners are commissioners of the Board of Parole Hearings.

SEC. 523. Section 6024 of the Penal Code is amended to read:

6024. Commencing July 1, 2005, there is hereby established ~~with~~ *within* the Department of Corrections and Rehabilitation the Corrections Standards Authority. As of July 1, 2005, any reference to the Board of Corrections refers to the Corrections Standards Authority. As of that date, the Board of Corrections is abolished.

SEC. 524. Section 11163 of the Penal Code is amended to read:

11163. (a) The Legislature finds and declares that even though the Legislature has provided for immunity from liability, pursuant to Section 11161.9, for persons required or authorized to report pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse pursuant to other laws.

In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibility, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions.

(b) (1) Therefore, a health practitioner may present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for reasonable attorney's fees incurred in any action against that person on the basis of that person reporting in accordance with this article if the court dismisses the action upon a demurrer or motion for summary judgment made by that person or if that person prevails in the action.

(2) The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall allow the claim pursuant to paragraph (1) if the requirements of paragraph (1) are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

(3) This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

SEC. 525. Section 11172 of the Penal Code is amended to read:

11172. (a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article, and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his or her professional capacity or outside the scope of his or her employment. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or causing photographs to be

taken of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person, who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim of a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of providing that access.

(c) *(1)* The Legislature finds that even though it has provided immunity from liability to persons required or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required or authorized reports. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a mandated reporter may present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

(2) This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees and costs to a commercial film and photographic print processor when a suit is

brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

SEC. 526. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, ~~of~~ the State of California, or any other state, government, or country~~,~~ or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, *and* who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, *and* who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the

state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) *(i)* Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

(ii) In making its decision, the court shall consider the petitioner’s continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is

the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1) may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) *(i)* Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

(ii) In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been

granted relief pursuant to paragraph (2) or (3) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) (1) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this section from owning, purchasing, receiving, possessing or having under his or her custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. Failure to provide the notice shall not be a defense to a violation of this section.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare

and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, ~~or~~ *a protective order* issued pursuant to Section 136.2 or 646.91 of this code, or ~~by~~ a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order

issued pursuant to Section 136.2 or 646.91 of this code, or ~~by~~ a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) *The* Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm while the protective order is in effect. The order shall also state that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall state the penalties for a violation of the prohibition. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with ~~the provisions of~~ Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

SEC. 527. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon or any .50 BMG rifle, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon or any .50 BMG rifle to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(3) Except in the case of a first violation involving not more than two firearms as provided in subdivisions (b) and (c), for purposes of this section, if more than one assault weapon or .50 BMG rifle is involved in any violation of this section, there shall be a distinct and separate offense for each.

(b) Any person who, within this state, possesses any assault weapon, except as provided in this chapter, ~~is punishable~~ *shall be punished* by imprisonment in a county jail for a period not

exceeding one year, or by imprisonment in the state prison. However, a first violation of these provisions is punishable by a fine not exceeding five hundred dollars ($500)~~,~~ if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined *as* an assault weapon pursuant to Section 12276, 12276.1, or 12276.5.

(2) The person has not previously been convicted of a violation of this section.

(3) The person was found to be in possession of the assault weapon within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(4) The person relinquished the firearm pursuant to Section 12288, in which case the assault weapon shall be destroyed pursuant to Section 12028.

(c) Any person who, within this state, possesses any .50 BMG rifle, except as provided in this chapter,~~ is punishable~~ *shall be punished* by a fine of one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed one year, or by both that fine and imprisonment. However, a first violation of these provisions is punishable by a fine not exceeding five hundred dollars ($500)~~,~~ if the person was found in possession of no more than two firearms in compliance with subdivision (a) of Section 12285 and the person meets the conditions set forth in paragraphs (1), (2), and (3):

(1) The person proves that he or she lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(2) The person has not previously been convicted of a violation of this section.

(3) The person was found to be in possession of the .50 BMG rifle within one year following the end of the .50 BMG rifle registration period established pursuant to subdivision (a) of Section 12285.

(4) Firearms seized pursuant to this subdivision from persons who meet all of the conditions set forth in paragraphs (1), (2), and (3) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the .50 BMG rifle

should be destroyed pursuant to Section 12028. Firearms seized from persons who do not meet the conditions set forth in paragraphs (1), (2), and (3) shall be destroyed pursuant to Section 12028.

(d) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(e) Subdivisions (a), (b), and (c) shall not apply to the sale to, purchase by, importation of, or possession of assault weapons or a .50 BMG rifle by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the ~~Youth and Adult Corrections Agency~~ *Department of Corrections and Rehabilitation*, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.

(f) (1) Subdivisions (b) and (c) shall not prohibit the possession or use of assault weapons or a .50 BMG rifle by sworn peace officer members of those agencies specified in subdivision (e) for law enforcement purposes, whether on or off duty.

(2) Subdivisions (a), (b), and (c) shall not prohibit the delivery, transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a sworn peace officer member of an agency specified in subdivision (e)~~, provided that~~ *if* the peace officer is authorized by his or her employer to possess or receive the assault weapon or the .50 BMG rifle. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. For this exemption to apply, in the case of a peace officer who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 on or before April 1, 2002~~;~~*, and* in the

case of a peace officer who possesses or receives the assault weapon on or after January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 not later than 90 days after possession or receipt. In the case of a peace officer who possesses or receives a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50 BMG rifle on or before April 30, 2006. In the case of a peace officer who possesses or receives a .50 BMG rifle after January 1, 2005, the officer shall register the .50 BMG rifle not later than one year after possession or receipt. The peace officer must include with the registration, a copy of the authorization required pursuant to this paragraph.

(3) Nothing in this section shall be construed to limit or prohibit the delivery, transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a member of a federal law enforcement agency provided that person is authorized by the employing agency to possess the assault weapon or .50 BMG rifle.

(g) Subdivision (b) shall not apply to the possession of an assault weapon during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(h) Subdivisions (a), (b), and (c) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons or .50 BMG rifles for sale to the following:

(1) Exempt entities listed in subdivision (e).

(2) Entities and persons who have been issued permits pursuant to Section 12286 or 12287.

(3) Entities outside the state who have, in effect, a federal firearms dealer’s license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(i) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Section 12285 or that was possessed pursuant to paragraph (1) of subdivision (f) ~~which~~ *that* is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(j) Subdivisions (b) and (c) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Section 12285 or that was possessed pursuant to paragraph (1) of subdivision (f) if the assault weapon or .50 BMG rifle is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(k) Subdivision (a) shall not apply to *either of the following*:

(1) A person who lawfully possesses and has registered an assault weapon or .50 BMG rifle pursuant to this chapter who lends that assault weapon or .50 BMG rifle to another if all the following apply:

(A) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon or .50 BMG rifle is lent remains in the presence of the registered possessor of the assault weapon or .50 BMG rifle.

(C) The assault weapon or .50 BMG rifle is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency

or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon or .50 BMG rifle to the registered possessor, or the lawful possessor, which is lent by the same pursuant to paragraph (1).

(*l*) Subdivisions (b) and (c) shall not apply to the possession of an assault weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG rifle is lent pursuant to subdivision (k).

(m) Subdivisions (a), (b), and (c) shall not apply to the possession and importation of an assault weapon or a .50 BMG rifle into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon or a .50 BMG rifle.

(2) The competition or match is conducted on the premises of one of the following:

(A) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(B) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon or .50 BMG rifle is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(n) Subdivisions, (b) and (c) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286 or 12287.

(2) A person who has a permit to possess an assault weapon or a .50 BMG rifle issued pursuant to Section 12286 or 12287 when

he or she is acting in accordance with Section 12285, 12286, or 12287.

(o) Subdivisions (a), (b), and (c) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286, 12287, or 12290.

(p) Subdivisions (b) and (c) shall not apply to the registered owner of an assault weapon or a .50 BMG rifle possessing that firearm in accordance with subdivision (c) of Section 12285.

(q) Subdivision (a) shall not apply to the importation into this state of an assault weapon or a .50 BMG rifle by the registered owner of that assault weapon or a .50 BMG rifle, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(r) Subdivision (a) shall not apply during the first 180 days of the 2005 calendar year to the importation into this state of a .50 BMG rifle by a person who lawfully possessed that .50 BMG rifle in this state prior to January 1, 2005.

(s) Subdivision (c) shall not apply to the possession of a .50 BMG rifle that is not defined or specified as an assault weapon pursuant to this chapter, by any person prior to May 1, 2006, if all of the following are applicable:

(1) The person is eligible under this chapter to register that .50 BMG rifle.

(2) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(3) The person is otherwise in compliance with this chapter.

(t) Subdivisions (a), (b), and (c) shall not apply to the sale of assault weapons or .50 BMG rifles by persons who are issued permits pursuant to Section 12287 to any of the following:

(1) Exempt entities listed in subdivision (e).

(2) Entities and persons who have been issued permits pursuant to Section 12286 or 12287.

(3) Federal military and law enforcement agencies.

(4) Law enforcement and military agencies of other states.

(5) Foreign governments and agencies approved by the United States State Department.

(6) Officers described in subdivision (f) who are authorized to possess assault weapons or .50 BMG rifles pursuant to subdivision (f).

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 528. Section 13300.1 of the Penal Code is repealed.

~~13300.1. Any information generated pursuant to the provisions of paragraph (10) of subdivision (c) of Section 13300 shall be destroyed at the end of the limitation period for the filing of a civil action arising out of the screening or accreditation of persons as current or prospective employees, concessionaires and contractors and their subcontractors, agents and employees for Olympic Games purposes. The knowing and willful failure (1) to notify the recipient as required by Section 13300, or (2) to destroy any information as required by this section is a misdemeanor punishable in a county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000) or both.~~

SEC. 529. Section 13603 of the Penal Code is amended to read:

13603. (a) The Department of Corrections and Rehabilitation shall provide 16 weeks of training to each correctional peace officer cadet. Except as provided by subdivision (b), this training shall be completed by the cadet prior to his or her assignment to a post or position as a correctional peace officer.

(b) If an agreement is reached between the department and the bargaining unit for the correctional peace officers that this subdivision shall apply, and with the approval of the Corrections Standards Authority on how to implement the on-the-job training requirements of ~~the~~ *this* subdivision, the department shall provide a total of 16 weeks of training to each correctional peace officer cadet as follows:

(1) Twelve weeks of the training shall be at the department's training academy. Cadets shall be sworn in as correctional peace officers upon the completion of this initial 12 weeks.

(2) Four weeks shall be at the institution where the cadet is assigned to a post or position.

(c) The department shall provide a minimum of two weeks of training to each newly appointed first-line supervisor.

(d) Training standards previously established pursuant to this section shall remain in effect until training requirements are established by the Corrections Standards Authority pursuant to Section 13602.

SEC. 530. Section 13810 of the Penal Code is amended to read:

13810. *(a)* There is hereby created in the state government the California Council on Criminal Justice, which shall be composed of the following members: the Attorney General; the Administrative Director of the Courts; 19 members appointed by the Governor, including the Commissioner of the Department of the Highway Patrol, the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, a subordinate officer of the Secretary of Corrections and Rehabilitation, and the State Public Defender; eight members appointed by the Senate ~~Rules~~ Committee *on Rules*; and eight members appointed by the Speaker of the Assembly.

(b) (1) The remaining appointees of the Governor shall include different persons from each of the following categories: a district attorney, a sheriff, a county public defender, a county probation officer, a member of a city council, a member of a county board of supervisors, a faculty member of a college or university qualified in the field of criminology, police science, or law, a person qualified in the field of criminal justice research and six private citizens, including a representative of a citizens, professional, or community organization. ~~The~~

(2) The Senate Committee on Rules shall include among its appointments different persons from each of the following categories: a member of the Senate ~~Public Safety~~ Committee *on Public Safety*, a representative of the counties, a representative of the cities, a judge designated by the Judicial Council, and four private citizens, including a representative of a citizens, professional, or community organization. ~~The~~

(3) The Speaker of the Assembly shall include among his *or her* appointments different persons from each of the following categories: a representative of the counties, a representative of the cities, a member of the Assembly Committee on Public Safety, a chief of police, a peace officer, and three private citizens, including a representative of a citizens, professional, or community organization directly related to delinquency prevention.

(c) The Governor shall select a ~~chairman~~ *chairperson* from among the members of the council.

SEC. 531. Section 13826.7 of the Penal Code is amended to read:

13826.7. The agency or agencies designated by the Director of Finance pursuant to Section 13820 and the California Council on Criminal Justice are encouraged to utilize any federal funds that may become available for purposes of this ~~act~~ *chapter*. This ~~act~~ *chapter* becomes operative only if federal funds are made available for its implementation.

SEC. 532. Section 13835.2 of the Penal Code is amended to read:

13835.2. (a) Funds appropriated from the Victim-Witness Assistance Fund shall be made available through the agency or agencies designated by the Director of Finance pursuant to Section 13820 to any public or private nonprofit agency for the assistance of victims and witnesses ~~which~~ *that* meets all of the following requirements:

(1) It provides comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs ~~which~~ *that* do not restrict services to victims and witnesses of a particular type of crime, and ~~which~~ do not restrict services to victims of crime ~~where~~ *in which* there is a suspect in the case.

(2) It is recognized by the board of supervisors as the major provider of comprehensive services to victims and witnesses in the county.

(3) It is selected by the board of supervisors as the agency to receive funds pursuant to this article.

(4) It assists victims of crime in the preparation, verification, and presentation of their claims to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*

for indemnification pursuant to Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) It cooperates with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in verifying the data required by Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(b) The agency or agencies designated by the Director of Finance pursuant to Section 13820 shall consider the following factors, together with any other circumstances it deems appropriate, in awarding funds to public or private nonprofit agencies designated as victim and witness assistance centers:

(1) The capability of the agency to provide comprehensive services as defined in this article.

(2) The stated goals and objectives of the center.

(3) The number of people to be served and the needs of the community.

(4) Evidence of community support.

(5) The organizational structure of the agency ~~which~~ *that* will operate the center.

(6) The capability of the agency to provide confidentiality of records.

(c) The agency or agencies designated by the Director of Finance pursuant to Section 13820 shall conduct an evaluation of the activities and performance of the centers established pursuant to Chapter 1256 of the Statutes of 1977 to determine their ability to comply with the intent of this article, and shall report the findings thereon to the Legislature by January 1, 1985.

SEC. 533. Section 14030 of the Penal Code is amended to read:

14030. (a) The Attorney General shall establish a liaison with the United States Marshal's office in order to facilitate the legal processes over which the federal government has sole authority, including, but not limited to, those processes included in Section 14024. The liaison shall coordinate all requests for federal assistance relating to witness protection as established by this title.

(b) The Attorney General shall pursue all federal sources that may be available for implementing this program. For that

purpose, the Attorney General shall establish a liaison with the United States Department of Justice.

(c) The Attorney General, with the ~~Board of Control~~ *California Victim Compensation and Government Claims Board*, shall establish procedures to maximize federal funds for witness protection services.

SEC. 534. Section 6108 of the Public Contract Code is amended to read:

6108. (a) (1) Every contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, shall require that a contractor certify that no apparel, garments ~~or~~, corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor. The contractor shall agree to comply with this provision of the contract.

(2) The contract shall specify that the contractor is required to cooperate fully in providing reasonable access to the contractor's records, documents, agents ~~or~~, employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice determine the contractor's compliance with the requirements under paragraph (1).

(b) (1) Any contractor contracting with the state who knew or should have known that the apparel, garments ~~or~~, corresponding accessories, equipment, materials, or supplies furnished to the state were laundered or produced in violation of the conditions specified in subdivision (a) when entering into a contract pursuant to subdivision (a), may, subject to subdivision (c), have any or all of the following sanctions imposed:

(A) The contract under which the prohibited apparel, garments, or corresponding accessories, equipment, materials, or supplies were laundered or provided may be voided at the option

of the state agency to which the equipment, materials, or supplies were provided.

(B) The contractor may be assessed a penalty ~~which~~ *that* shall be the greater of one thousand dollars ($1,000) or an amount equaling 20 percent of the value of the apparel, garments ~~or~~, corresponding accessories, equipment, materials, or supplies that the state agency demonstrates were produced in violation of the conditions specified in paragraph (1) of subdivision (a) and that were supplied to the state agency under the contract.

(C) The contractor may be removed from the bidder's list for a period not to exceed 360 days.

(2) Any moneys collected pursuant to this subdivision shall be deposited into the General Fund.

(c) (1) When imposing the sanctions described in subdivision (b), the contracting agency shall notify the contractor of the right to a hearing, if requested, within 15 days of the date of the notice. The hearing shall be before an administrative law judge of the Office of Administrative Hearings in accordance with the procedures specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The administrative law judge shall take into consideration any measures the contractor has taken to ensure compliance with this section, and may waive any or all of the sanctions if it is determined that the contractor has acted in good faith.

(2) The agency shall be assessed the cost of the administrative hearing, unless the agency has prevailed in the hearing, in which case the contractor shall be assessed the cost of the hearing.

(d) (1) Any state agency that investigates a complaint against a contractor for violation of this section may limit its investigation to evaluating the information provided by the person or entity submitting the complaint and the information provided by the contractor.

(2) Whenever a contracting officer of the contracting agency has reason to believe that the contractor failed to comply with ~~the requirements under~~ paragraph (1) of subdivision (a), the agency shall refer the matter for investigation to the head of the agency and, as the head of the agency determines appropriate, to either the Director of Industrial Relations or the Department of Justice.

(e) (1) For purposes of this section, ~~the term~~ "forced labor" shall have the same meaning as in Section 1307 of Title 19 of the United States Code.

(2) "Abusive forms of child labor" means any of the following:

(A) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict.

(B) The use, procuring, or offering of a child for prostitution, for the production of pornography, or for pornographic performances.

(C) The use, procuring, or offering of a child for illicit activities, in particular for the production and trafficking of illicit drugs.

(D) All work or service exacted from or performed by any person under the age of 18 *years* either under the menace of any penalty for its nonperformance and for which the worker does not offer oneself voluntarily, or under a contract, the enforcement of which can be accomplished by process or penalties.

(E) All work or service exacted from or performed by a child in violation of all applicable laws of the country of manufacture governing the minimum age of employment, compulsory education, and occupational health and safety.

(3) "Exploitation of children in sweatshop labor" means all work or service exacted from or performed by any person under the age of 18 years in violation of more than one law of the country of manufacture governing wage and benefits, occupational health and safety, nondiscrimination, and freedom of association.

(4) "Sweatshop labor" means all work or service ~~extracted~~ *exacted* from or performed by any person in violation of more than one law of the country of manufacture governing wages, employee benefits, occupational health, occupational safety, nondiscrimination, or freedom of association.

(5) "Apparel, garments, or corresponding accessories" includes, but is not limited to, uniforms.

(6) Notwithstanding any other provision of this section, "forced labor" and "convict labor" do not include work or

services performed by an inmate or a person employed by the Prison Industry Authority.

(7) "State agency" means any state agency in this state.

(f) (1) On or before February 1, 2004, the Department of Industrial Relations shall establish a contractor responsibility program, including a Sweatfree Code of Conduct, to be signed by all bidders on state contracts and subcontracts. Any state agency responsible for procurement shall ensure that the Sweatfree Code of Conduct is available for public review at least 30 calendar days between the dates of receipt and the final award of the contract. The Sweatfree Code of Conduct shall list the requirements that contractors are required to meet, as set forth in subdivision (g).

(2) Upon implementation in the manner described in paragraph (4), every contract entered into by any state agency for the procurement or laundering of apparel, garments, or corresponding accessories, or for the procurement of equipment or supplies, shall require that the contractor certify in accordance with the Sweatfree Code of Conduct that no apparel, garments, or corresponding accessories, or equipment, materials, or supplies, furnished to the state pursuant to the contract have been laundered or produced, in whole or in part, by sweatshop labor.

(3) The appropriate procurement agency, in consultation with the Director of Industrial Relations, shall employ a phased and targeted approach to implementing the Sweatfree Code of Conduct. Sweatfree Code of Conduct procurement policies involving apparel, garments, and corresponding accessories may be permitted a phasein period of up to one year for purposes of feasibility and providing sufficient notice to contractors and the general public. The appropriate procurement agency, in consultation with the Director of Industrial Relations, shall target other procurement categories based on the magnitude of verified sweatshop conditions and the feasibility of implementation, and may set phasein goals and timetables of up to three years to achieve compliance with the principles of the Sweatfree Code of Conduct.

(4) In order to facilitate compliance with the Sweatfree Code of Conduct, the Department of Industrial Relations shall explore mechanisms employed by other governmental entities, including, but not limited to, New Jersey Executive Order 20, of 2002, to

ensure that businesses that contract with this state are in compliance with this section and any regulations or requirements promulgated in conformance with this section, as amended by ~~the act adding this paragraph~~ *Section 2 of Chapter 711 of the Statutes of 2003*. The mechanisms explored may include, but not be limited to, authorization to contract with a competent nonprofit organization that is neither funded nor controlled, in whole or in part, by a corporation that is engaged in the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies. The Department of Industrial Relations, in complying with this paragraph, shall also consider any feasible and cost-effective monitoring measures that will encourage compliance with the Sweatfree Code of Conduct.

(5) To ensure public access and confidence, the Department of Industrial Relations shall ensure public awareness and access to proposed contracts by postings on the Internet and through communication to advocates for garment workers, unions, and other interested parties. The appropriate agencies shall establish a mechanism for soliciting and reviewing any information indicating violations of the Sweatfree Code of Conduct by prospective or current bidders, contractors, or subcontractors. The agencies shall make their findings public when they reject allegations against bidding or contracting parties.

(6) Contractors shall ensure that their subcontractors comply in writing with the Sweatfree Code of Conduct, under penalty of perjury. Contractors shall attach a copy of the Sweatfree Code of Conduct to the certification required by subdivision (a).

(g) No state agency may enter into a contract with any contractor unless the contractor meets the following requirements:

(1) Contractors and subcontractors in California shall comply with all appropriate state laws concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards as well as appropriate federal laws. Contractors based in other states in the United States shall comply with all appropriate laws of their states and appropriate federal laws. For contractors whose locations for manufacture or assembly are outside the United States, those contractors shall ensure that their

subcontractors comply with the appropriate laws of countries where the facilities are located.

(2) Contractors and subcontractors shall maintain a policy of not terminating any employee except for just cause, and employees shall have access to a mediator or to a mediation process to resolve certain workplace disputes that are not regulated by the National Labor Relations Board.

(3) Contractors and subcontractors shall ensure that workers are paid, at a minimum, wages and benefits in compliance with applicable local, state, and national laws of the jurisdiction in which the labor, on behalf of the contractor or subcontractor, is performed. Whenever a state agency expends funds for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, the applicable labor standards established by the local jurisdiction through the exercise of either local police powers or local spending powers in which the labor, in compliance with the contract or purchase order for which the expenditure is made, is performed shall apply with regard to the contract or purchase order for which the expenditure is made, unless the applicable local standards are in conflict with, or are explicitly preempted by, state law. A state agency may not require, as a condition for the receipt of state funds or assistance, that a local jurisdiction refrain from applying the labor standards that are otherwise applicable to that local jurisdiction. The Department of Industrial Relations may, without incurring additional expenses, access information from any nonprofit organization, including, but not limited to, the World Bank, that gathers and disseminates data with respect to wages paid throughout the world, to allow the Department of Industrial Relations to determine whether contractors and subcontractors are compensating their employees at a level that enables those employees to live above the applicable poverty level.

(4) All contractors and subcontractors shall comply with the overtime laws and regulations of the country in which their employees are working.

(5) All overtime hours shall be worked voluntarily. Workers shall be compensated for overtime at either (A) the rate of

compensation for regular hours of work, or (B) as legally required in the country of manufacture, whichever is greater.

(6) No person may be employed who is younger than the legal age for children to work in the country in which the facility is located. In no case may children under the age of 15 years be employed in the manufacturing process. Where the age for completing compulsory education is higher than the standard for the minimum age of employment, the age for completing education shall apply to this section.

(7) There may be no form of forced labor of any kind, including slave labor, prison labor, indentured labor, or bonded labor, including forced overtime hours.

(8) The work environment shall be safe and healthy and, at a minimum, be in compliance with relevant local, state, and national laws. If residential facilities are provided to workers, those facilities shall be safe and healthy as well.

(9) There may be no discrimination in hiring, salary, benefits, performance evaluation, discipline, promotion, retirement, or dismissal on the basis of age, sex, pregnancy, maternity leave status, marital status, race, nationality, country of origin, ethnic origin, disability, sexual orientation, gender identity, religion, or political opinion.

(10) No worker may be subjected to any physical, sexual, psychological, or verbal harassment or abuse, including corporal punishment, under any circumstances, including, but not limited to, retaliation for exercising his or her right to free speech and assembly.

(11) No worker may be forced to use contraceptives or take pregnancy tests. No worker may be exposed to chemicals, including glues and solvents, that endanger reproductive health.

(12) Contractors and bidders shall list the names and addresses of each subcontractor to be utilized in the performance of the contract, and list each manufacturing or other facility or operation of the contractor or subcontractor for performance of the contract. The list, which shall be maintained and updated to show any changes in subcontractors during the term of the contract, shall provide company names, owners or officers, addresses, telephone numbers, e-mail addresses, and the nature of the business association.

(h) Any person who certifies as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor.

(i) The provisions of this section, as amended by ~~the act adding this subdivision~~ *Section 2 of Chapter 711 of the Statutes of 2003*, shall be in addition to any other provisions that authorize the prosecution and enforcement of local labor laws and may not be interpreted to prohibit a local prosecutor from bringing a criminal or civil action against an individual or business that violates the provisions of this section.

(j) (1) The certification requirements set forth in subdivisions (a) and (f) do not apply to a credit card purchase of goods of two thousand five hundred dollars ($2,500) or less.

(2) The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars ($7,500) per year for each company from which a state agency is purchasing goods by credit card. It shall be the responsibility of each state agency to monitor the use of this exemption and adhere to these restrictions on these purchases.

SEC. 535. The heading of Article 3 (commencing with Section 9201) of Chapter 9 of Part 1 of Division 2 of the Public Contract Code is repealed.

~~Article 3.~~

SEC. 536. Section 10240.5 of the Public Contract Code is amended to read:

10240.5. *(a)* The Departments of General Services, Transportation, and Water Resources shall jointly adopt and may, from time to time, modify, revise, or repeal uniform regulations to implement ~~the provisions of~~ this article, which regulations shall be consistent with this article and Article 7.2 (commencing with Section 10245). The regulations may include, but ~~not~~ need not be limited to:

~~(a)~~

(1) The method of initiating arbitration.

~~(b)~~

(2) The place of hearing based upon the convenience of the parties.

~~(c)~~

(3) Procedures for the selection of a neutral arbitrator.

~~(d)~~

(4) The form and content of any pleading.

~~(e)~~

(5) Procedure for conducting hearings.

~~(f)~~

(6) The providing of experts to assist the arbitrator in the event the assistance is needed.

~~(g)~~

(7) The content of the award.

~~(h)~~

(8) Simplified procedures for claims of fifty thousand dollars ($50,000) or less.

(b) Pending adoption of the initial uniform regulations under this section, the arbitration rules set forth in Subchapter 3 (commencing with Section 301) of Chapter 2 of Title 1 of the California ~~Administrative~~ Code *of Regulations*, shall govern the conduct of arbitrations under this chapter.

SEC. 537. Section 10329 of the Public Contract Code is amended to read:

10329. No person shall willfully split a single transaction into a series of ~~transations~~ *transactions* for the ~~purposes~~ *purpose of* evading the bidding requirements of this article.

SEC. 538. Section 12183 of the Public Contract Code is amended to read:

12183. (a) All state departments and agencies, including, but not limited to, the Department of Transportation, the Department of Water Resources, the Department of ~~Foresty~~ *Forestry and Fire Protection*, and the Department of Parks and Recreation, shall give purchase preference to compost and ~~co-compost~~ *cocompost* products when they can be substituted for, and cost no more than, the cost of regular fertilizer or soil amendment products, or both, if the ~~co-compost~~ *cocompost* products meet all applicable state standards and regulations, as determined by appropriate testing. The product preference shall include, but not be limited to, the construction of noise attenuation barriers and safety walls, highway planting projects, and recultivation and erosion control programs.

SEC. 539. Section 20105 of the Public Contract Code is amended to read:

20105. ~~The provisions of this~~ *This* article shall apply to contracts subject to the State School Building Aid Law of 1949 provided for in Chapter ~~6~~ *4* (commencing with Section 15700) of Part 10 of ~~Division 1 of Title 1 of~~ the Education Code.

SEC. 540. Section 20118.4 of the Public Contract Code is amended to read:

20118.4. *(a)* If any change or alteration of a contract governed by ~~the provisions of~~ Article 3 (commencing with Section ~~39643) of Chapter 4 of Part 23~~ *17595) of Chapter 5 of Part 10.5* of the Education Code is ordered by the governing board of the district, the change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration, without the formality of securing bids, if the cost so agreed upon does not exceed the greater of *the following*:

~~(a)~~

(1) The amount specified in Section 20111 or 20114, whichever is applicable to the original contract~~; or~~.

~~(b)~~

(2) Ten percent of the original contract price.

(b) The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also authorize any change or alteration of a contract for reconstruction or rehabilitation work, other than for the construction of new buildings or other new structures, ~~where~~ *if* the cost of the change or alteration is in excess of the limitations in ~~subdivisions (a) and (b)~~ *paragraphs (1) and (2) of subdivision (a)* but does not exceed 25 percent of the original contract price, without the formality of securing bids, ~~when such~~ *and the* change or alteration is a necessary and integral part of the work under the contract and the taking of bids would delay the completion of the contract. Changes exceeding 15 percent of the original contract price shall be approved by an affirmative vote of not less than 75 percent of the members of the governing board.

SEC. 541. Section 20133 of the Public Contract Code is amended to read:

20133. (a) (1) This section provides for an alternative procedure on bidding on building construction projects in excess of two million five hundred thousand dollars ($2,500,000) applicable only in the Counties of Alameda, Butte, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Kings, Los Angeles, Madera, Mariposa, Mendocino, Merced, Monterey, Napa, Orange, Placer, Sacramento, San Diego, San Joaquin, San Luis Obispo, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Tulare, Yolo, and Yuba, upon approval of the appropriate board of supervisors.

(2) These counties may award the project using either the lowest responsible bidder or by best value.

(b) (1) It is the intent of the Legislature to enable these counties to utilize cost-effective options for building and modernizing public facilities. It is not the intent of the Legislature to authorize this procedure for transportation facilities, including, but not limited to, roads and bridges.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process. The Legislature also finds that the cost-effective benefits to the counties are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

(3) It is the intent of the Legislature to provide an alternative and optional procedure for bidding and building construction projects for these counties.

(4) The design-build approach may be used, but is not limited to ~~use~~, when it is anticipated that it will: reduce project cost, expedite project completion, or provide design features not achievable through the design-bid-build method.

(5) If the board of supervisors elects to proceed under this section, the board of supervisors shall establish and enforce for design-build projects a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the county or the design-build entity has entered

into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(c) As used in this section:

(1) "Best value" means a value determined by objective criteria related to price, features, functions, and life-cycle costs.

(2) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(4) "Project" means the construction of a building and improvements directly related to the construction of a building, but does not include the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure.

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The county shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the buildings and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the county's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the county to assist in the development of the project specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the county shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the county. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed

necessary by the county to inform interested parties of the contracting opportunity, to include the methodology that will be used by the county to evaluate proposals and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant factors ~~which~~ *that* the county reasonably expects to consider in evaluating proposals, including cost or price and all nonprice related factors.

(iii) The relative importance of weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of subparagraph (A), if a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the county chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately or incorporate into the request for proposal applicable rules and procedures to be observed by the county to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The county shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the county. In preparing the questionnaire, the county shall consult with the construction industry, including representatives of the building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, as well as a

financial statement that assures the county that the design-build entity has the capacity to complete the project.

(iii) The licenses, registration, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(iv) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(v) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, or the federal Occupational Safety and Health Act of 1970 ~~(Public Law~~ *(P.L.* 91-596), settled against any member of the design-build entity, and information concerning workers' compensation experience history and worker safety program.

(vi) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance ~~where~~ *in which* an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(vii) Any instance ~~where~~ *in which* the entity, *or* its ~~owner~~ *owners*, officers, or managing employees, defaulted on a construction contract.

(viii) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance ~~Contribution~~ *Contributions* Act ~~(FICA)~~ *(FICA; 26 U.S.C. Sec. 3101 et seq.)* withholding requirements settled against any member of the design-build entity.

(ix) Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.

(x) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid pursuant to this section, in which the claim,

settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(xi) In the case of a partnership or other association, that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the design-build contract.

(B) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5~~,~~ *(commencing with Section 6250) of* Division 7~~,~~ *of* Title 1 of the Government Code) shall not be open to public inspection.

(4) The county shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the following criteria:

(A) A competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. Awards shall be made to the lowest responsible bidder.

(B) A county may use a design-build competition based upon best value and other criteria set forth in paragraph (2)~~ of subdivision (d)~~. The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall each represent at least 10 percent of the total weight of consideration given to all criteria factors~~;~~*:* price, technical design, and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the county shall publicly announce its award,

identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the county's second and third ranked design-build entities.

(v) For the purposes of this paragraph, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For the purposes of this paragraph, a bidder's "safety record" shall be deemed "acceptable" if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their average Total Recordable Injury/Illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(e) (1) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omission insurance coverage sufficient to cover all design and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(2) Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the county.

(f) All subcontractors that were not listed by the design-build entity in accordance with clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) shall be awarded by the design-build entity in accordance with the design-build process set forth by the county in the design-build package. All

subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the county.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the county.

(h) The county may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(i) Contracts awarded pursuant to this section shall be valid until the project is completed.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(k) (1) If the county elects to award a project pursuant to this section, retention proceeds withheld by the county from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the county and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the county and the design-build entity from any payment made by the design-build entity to the subcontractor.

(*l*) Each county that elects to proceed under this section and uses the design-build method on a public works project shall submit to the Legislative Analyst's Office before December 1, 2009, a report containing a description of each public works project procured through the design-build process and completed after November 1, 2004, and before November 1, 2009. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.

(2) The gross square footage of the project.

(3) The design-build entity that was awarded the project.

(4) The estimated and actual length of time to complete the project.

(5) The estimated and actual project costs.

(6) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protests.

(7) An assessment of the prequalification process and criteria.

(8) An assessment of the effect of retaining 5-percent retention on the project.

(9) A description of the Labor Force Compliance Program and an assessment of the project impact, where required.

(10) A description of the method used to award the contract. If best value was the method, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(11) An assessment of the project impact of "skilled labor force availability."

(12) An assessment of the design-build dollar limits on county projects. This assessment shall include projects where the county wanted to use design-build and was precluded by the dollar limitation. This assessment shall also include projects where the best value method was not used due to dollar limitations.

(13) An assessment of the most appropriate uses for the design-build approach.

(m) Any county named in subdivision (a) that elects to not use the authority granted by this section may submit a report to the Legislative Analyst's Office explaining why the county elected to not use the design-build method.

(n) On or before January 1, 2010, the Legislative Analyst shall report to the Legislature on the use of the design-build method by counties pursuant to this section, including the information listed in subdivision (*l*). The report may include recommendations for modifying or extending this section.

(o) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 542. Section 20407 of the Public Contract Code is amended to read:

20407. In the event of great emergency, including, but not limited to, states of disaster defined in Section ~~1505~~ *8558* of the ~~Military and Veterans~~ *Government* Code, upon the majority vote of the board, the board may proceed at once to replace or repair any and all bridges without adopting plans, specifications, strain sheets, or working details~~,~~ *and* without letting contracts or ~~without~~ calling for bids. ~~Such~~ *The* work may be done by day labor under the direction of the board~~,~~ or by contract, or by a combination of the two. If done wholly or in part by contract, the contractor shall be paid the actual cost of *the* use of machinery and tools and of material and labor expended by him *or her* in doing the work, plus not more than 15 percent to cover all profits, supervision, and any other expense. No more than the lowest current market prices shall be paid for materials.

SEC. 543. Section 20448 of the Public Contract Code is amended to read:

20448. At the hearing on the resolution of intention, the legislative body, without further notice and hearing, may order any changes, as defined in Sections ~~5230 and 5231 of the Streets and Highways Code~~ *20446 and 20447*, except changes to include additional territory in the assessment district. Any changes to include additional territory and all changes after the hearing on the resolution of intention shall be ordered only as provided in this chapter.

SEC. 544. Section 20450 of the Public Contract Code is amended to read:

20450. If ~~said~~ *a* resolution *required under Section 20449* proposes to include additional territory in the assessment district, at least 15 days prior to the hearing fixed therein, the clerk shall

mail a copy of ~~such~~ *the* resolution to all persons owning real property within ~~said~~ *the* additional territory whose names and addresses appear on the last equalized assessment roll or as known to the clerk. This section shall not apply if the hearing of objections is not required pursuant to Section ~~5232 of the Streets and Highways Code~~ *20449*.

SEC. 545. Section 20451 of the Public Contract Code is amended to read:

20451. Written objections to the proposed changes may be filed with the clerk by any interested person at any time not later than the time set for the hearing. The legislative body shall hear and pass upon ~~such~~ *the* objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive. If no written objections to ~~said~~ *the* changes have been delivered to the clerk up to the hour set for hearing thereon, or if ~~said~~ *the* objections have been heard and found by the legislative body to be insufficient or have been overruled or denied, immediately thereupon the legislative body by an affirmative vote of four-fifths of its members shall acquire jurisdiction to order ~~said~~ *the* changes made. If the hearing of objections is not required, pursuant to Section 5232 ~~of the Streets and Highways Code~~ *20449*, immediately upon passage of the resolution the legislative body shall acquire ~~jurisdiction~~ *jurisdiction* to order ~~said~~ *the* changes made. The decisions and determinations of the legislative body ordering ~~such~~ *the* changes shall be final and conclusive upon all persons entitled to appeal thereupon to the legislative body.

SEC. 546. Section 20452 of the Public Contract Code is amended to read:

20452. *(a)* No changes, except as provided in Section ~~5234.1 of the Streets and Highways Code~~ *20453*, shall be made pursuant to this chapter ~~which~~ *that* will increase the estimated assessable cost by more than 20 percent of the total estimated cost of the work as determined from *either of the following*:

~~(a)~~

(1) The engineer's estimate, if the change is ordered prior to the award of the contract~~, or~~.

~~(b)~~

(2) The successful bid, if the change is ordered after the award of the contract~~;~~.

~~provided, that any~~

(b) Any changes ~~so~~ made *pursuant to subdivision (a)* shall also be subject to the limitations, if any, contained in any law applicable to the proceedings~~, which law may impose~~ *that imposes* limitations upon the amount by which the estimated cost of the work or improvement may be increased by reason of ~~such~~ *those* changes.

SEC. 547. Section 20456 of the Public Contract Code is amended to read:

20456. Subject to the limitations of Section ~~5236 of the Streets and Highways Code~~ *20455*, the contract may include a provision to determine a fair and equitable price for changes in the work, including, but not limited to, arbitration or cost plus a fixed fee.

SEC. 548. Section 20487 of the Public Contract Code is amended to read:

20487. If, in the opinion of the legislative body, the public interest will not be served by allowing the property owners to take a contract, it may so provide in the resolution of intention. In ~~such~~ *that* event, no notice of award of contract need be published pursuant to Section ~~10502.1 of the Streets and Highways Code~~ *20484*.

SEC. 549. Section 20522 of the Public Contract Code is amended to read:

20522. *(a)* All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

~~(a)~~

(1) Cash.

~~(b)~~

(2) A cashier’s check made payable to the district.

~~(c)~~

(3) A certified check made payable to the district.

~~(d)~~

(4) A bidder’s bond executed by an admitted surety insurer, made payable to the district.

(b) Upon an award to the lowest bidder, the security of an ~~unsuccessful~~ *unsuccessful* bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

SEC. 550. Section 20563 of the Public Contract Code is amended to read:

20563. The board shall give notice by publication once a week for three successive weeks in a newspaper published in the ~~office~~ county *in which the principal office of a district is kept*, or if no newspaper is published in that county, in a newspaper the board deems advisable, calling for bids for the construction of the works or of any portion of them.

SEC. 551. Section 20582 of the Public Contract Code is amended to read:

20582. When work is to be done, the board shall give notice calling for bids by publication in the ~~office~~ county *in which the principal office of a district is kept* once a week for four consecutive weeks.

SEC. 552. Section 20688.2 of the Public Contract Code is amended to read:

20688.2. Any work of grading, clearing, demolition, or construction undertaken by the agency shall be done by contract after competitive bids if the cost of ~~such~~ *that* work exceeds the amount specified in Section ~~37902 of the Government Code~~ *20162*, as that section presently exists or may be hereafter amended. With respect to work of grading, clearing, demolition, or construction ~~which~~ *that* is not in excess of ~~such~~ *that* amount, the agency may contract the work without competitive bids, and in contracting ~~such~~ *the* work may give priority to the residents of ~~such~~ *the* redevelopment project areas and to persons displaced from ~~such~~ *those* areas as a result of redevelopment activities.

SEC. 553. Section 20853 of the Public Contract Code is amended to read:

20853. Immediately upon the award of the contract, the superintendent of streets shall enter into a contract with the person to whom the contract was awarded for making the improvements upon the portions of the streets described in the notice inviting bids, and at the price stated in the bid. The contractor shall execute bonds in the manner required by Section ~~5254 of the Streets and Highways Code~~ *20426*.

SEC. 554. Section 20894 of the Public Contract Code is amended to read:

20894. If the contractor abandons the work, or fails to proceed with it as rapidly as required by the contract, the city

forester may relet the work in the same manner as in the first letting, or complete or cause it to be completed in any other manner he *or she* deems advisable. The city forester may retain the amount of any expense incidental to the reletting, out of any funds due or to become due to the contractor, and may also hold the ~~contract or~~ *contractor* and the sureties upon the contractor's bond responsible for any additional expenses and for any damages resulting from the abandonment or failure to complete the contract.

SEC. 555. Section 21020.8 of the Public Contract Code is amended to read:

21020.8. Any work or improvements provided for in the act may be located, constructed, and maintained in, along, or across any public road or highway in the County of Orange, in the manner as to afford security for life and property, but the board of supervisors of the district shall restore or cause to be restored any public road or highway to its former state as near as may be, ~~be~~ so as not to impair its usefulness.

SEC. 556. Section 21040 of the Public Contract Code is amended to read:

21040. ~~The provisions of this~~ *This* article shall apply to contracts by the Orange County Water District, as provided for in Chapter ~~770~~ *924* of the Statutes of 1933.

SEC. 557. Section 21071 of the Public Contract Code is amended to read:

21071. (a) All contracts for any improvement or unit of work, except as ~~hereinafter~~ provided *in this article,* estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner ~~hereinafter~~ provided *in this article*. The ~~said~~ board of supervisors of ~~said~~ *the* district shall advertise, by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in ~~said~~ *the* district, inviting sealed proposals for the construction of~~,~~ the improvement or work before any contract shall be made ~~therefor~~ *for the improvement or work*, and may let by contract separately any part of ~~said~~ *the* work or improvement. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims

for labor and material in connection ~~therewith, such~~ *with the contract. The* bonds ~~to~~ *shall* contain the terms and conditions set forth in Chapter ~~3 of Division 5 of Title 1 of the Government~~ *7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil* Code and ~~to~~ be subject to ~~the provisions of~~ that chapter. The board shall also have the right to reject any and all bids. ~~In the event~~ *If* all proposals are rejected ~~or~~, no proposals are received pursuant to *the* advertisement ~~therefor, or where~~ the estimated cost of ~~such~~ *the* work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, ~~or~~ maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids ~~therefor~~, have ~~said~~ *the* work done by force account or negotiated contract.

(b) The district shall have the power to purchase in the open market without advertising for bids ~~therefor~~, materials, supplies, equipment, and other personal property for use in any work ~~therewith~~ either under contract or by force account ~~where~~ *if* the costs ~~thereof~~ do not exceed ten thousand dollars ($10,000). It shall be the duty of the purchasing agent of Ventura County, as the ex officio purchasing agent of the Ventura County Flood Control District, unless otherwise ordered by the board of supervisors, to purchase for the district all materials, supplies, equipment, and other personal property necessary to carry out the purposes of this ~~act~~ *article*, and to engage independent contractors to perform sundry services for the district, ~~where~~ *if* the aggregate cost of ~~such~~ *that* work, exclusive of materials to be furnished by the district, does not exceed ten thousand dollars ($10,000).

(c) The purchasing agent shall make all ~~such~~ *the* purchases and contracts upon proper requisition ~~therefor~~, signed by the engineer-manager of the district, or his or her authorized representative.

(d) If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing ~~in connection therewith, and~~ if the cost of labor and materials for ~~such~~ *the* work, according to the engineer's estimate, will exceed five thousand dollars ($5,000), and if the work is not of the type of work referred to in this section, ~~such~~ *the* maintenance and

alteration work shall be performed under a contract or contracts ~~which~~ *that* shall be let to the lowest responsible bidder or bidders in the manner described in this section.

SEC. 558. Section 21471 of the Public Contract Code is amended to read:

21471. Subject to the limitations in Section 14 of Chapter 166 of the Statutes of 1967, the agency may join with one or more public agencies, private corporations, or other persons for ~~that~~ *the* purpose ~~to~~ *of* carrying out any of the powers of the agency, and for that purpose to contract with ~~such~~ *the* other public agencies ~~or~~, private corporations, or persons for the purpose of financing ~~such~~ *the* acquisitions, constructions, and operations. ~~Such~~ *The* contract may provide for contributions to be made by each party ~~thereto and for~~ *to the contract,* the division and apportionment of the expenses of acquisitions and operations, and the division and apportionment of the benefits~~,~~ *and* the services and products therefrom, ~~and~~ may provide for any agency to effect ~~such~~ *the* acquisitions and to carry on ~~such~~ *those* operations, and shall provide, in the powers and methods of procedure for ~~such~~ *the* agency, the method by which ~~such~~ *the* agency may contract. ~~Such~~ *The* contracts with other public agencies ~~or~~, private corporations, or persons may contain ~~such~~ *any* other and further covenants and agreements ~~as~~ *that* may be necessary or convenient to accomplish the purposes ~~thereof~~ *of the contracts*. ~~The term "public agency" as~~ *As* used in this section, *"public agency"* shall be deemed to mean and include the United States or any department or agency thereof ~~of~~, the State of California or any department or agency thereof, *or* a county, city, public corporation, or other public district of this state. ~~The term "private corporation" as~~ *As* used in this section, *"private corporation"* shall be deemed to mean and include any private corporation organized under the laws of the United States or of this or any other state ~~thereof~~. Contracts mentioned ~~herein~~ *in this section* include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States or any department or agency thereof, or with any private corporation organized under the laws of the United States, by which the Mojave Water

Agency, or any improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for ~~such~~ *that* year shall not be executed without the assent of two-thirds of the ~~qualifed~~ *qualified* electors of the agency, or an improvement district thereof, voting at a special election to be held for that purpose~~, such~~. *The special* election ~~to~~ *shall* be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of ~~such~~ *the* contract need not be available at the time of the special election, but ~~the (1) purpose of the contract; (2) maximum amount of the indebtedness created thereby; (3) maximum term of repayment, and (4) maximum interest rate on such indebtedness~~ *all of the following* shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or an improvement district thereof, at ~~such~~ *the* special election~~.~~*:*

(a) Purpose of the contract.

(b) Maximum amount of the indebtedness created by the contract.

(c) Maximum term of repayment.

(d) Maximum interest rate on the indebtedness created by the contract.

SEC. 559. Section 21601 of the Public Contract Code is amended to read:

21601. Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be done by contract and let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit~~,~~ or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation, or by two insertions in a weekly newspaper of general circulation, printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon payment of their claims for labor and material.

The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids and readvertise, or, by a two-thirds vote, may elect to undertake the work by force account. ~~In the event~~ *If* no proposals are received, ~~or~~ the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board of supervisors may have the work done by force account without advertising for bids. In case *of* an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The district may purchase in the open market without advertising for bids, materials, and supplies for use in any work, either under contract or by force account.

SEC. 560. Section 2776 of the Public Resources Code is amended to read:

2776. *(a)* No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, ~~he or she~~ *the person* has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary ~~therefor~~ *for the surface mining operations*. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

(b) The ~~reclamination~~ *reclamation* plan required to be filed under subdivision (b) of Section 2770, shall apply to operations conducted after January 1, 1976, or to be conducted.

(c) Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976.

SEC. 561. Section 4116 of the Public Resources Code is amended to read:

4116. Any claim for damages arising against the state under Section 4114 or 4115 shall be presented to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code and, if not covered by insurance, shall be payable only out of funds appropriated by the Legislature for ~~such~~ *that* purpose. If the state has elected to acquire liability insurance, the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* may automatically deny ~~any such~~ *this* claim.

SEC. 562. Section 4144 of the Public Resources Code is amended to read:

4144. (a) Notwithstanding Section 4142, the director may, with the approval of the Department of General Services, enter into a cooperative agreement, *for the purpose of preventing and suppressing fires,* with a city, county, special district, or other political subdivision of the state~~,~~ or person, firm, association, or corporation ~~for the purpose of preventing and suppressing fires~~ that requests an agreement, under those terms and conditions that the director deems wise.

(b) The director shall not enter into or renew a cooperative agreement pursuant to this section under any of the following circumstances:

(1) With any county that has assumed responsibility pursuant to Section 4129.

(2) If the land to be protected is not in proximity to, nor within lands classified by the board pursuant to Section 4125 as, a state responsibility area. For the purposes of this paragraph, "proximity" means within a distance from an existing facility that results in a response time established by the board that is not longer than that used by the department in meeting its state wild land fire protection mission.

(3) The director determines that the agreement would significantly reduce existing fire prevention and suppression service levels.

(4) The director determines, pursuant to the policy and standards adopted by the board under Section 4143, that the agreement would replicate services provided under an agreement made pursuant to Section 4142.

(5) The director determines that the service area of a particular station under the agreement is more appropriately served under an agreement made pursuant to Section 4142.

(c) The cooperative agreement shall provide all of the following:

(1) The department shall ensure that a staffing level, mutually agreeable to the parties to the agreement, is maintained on all fire prevention and suppression vehicles.

(2) The personnel, equipment, and buildings utilized shall be limited to those used to protect state responsibility areas. Whenever the cooperative agreement provides for the employment of personnel during the ~~"nonfire season"~~ *nonfire season* who would be in addition to the personnel required for the necessary operation and maintenance of equipment and buildings under the jurisdiction of the director, the full salaries and all benefits of the additional personnel shall be apportioned, as costs to the city, county, special district, or other political subdivision of the state, or person, firm, association, or corporation that contracts with the department pursuant to the cooperative agreement for fire protection.

(3) A cost apportionment between the state and the city, county, special district, or other political subdivision of the state, or person, firm, association, or corporation that contracts with the state for fire protection that reasonably reflects cost apportionments made pursuant to Section 4141 or 4142, except that the contracting city, county, special district, other political subdivision of the state, or contracting person, firm, association, or corporation shall be apportioned the additional cost for extended staff availability for 24-hour emergency response, for state personnel assigned to staff fire engines at a rate determined annually by the director, plus staff benefit costs attributable to the apportionment, and total unplanned overtime pay. The department shall recover its actual additional costs.

SEC. 563. Section 4516.6 of the Public Resources Code is amended to read:

4516.6. (a) To provide for adequate public review and comment, notwithstanding Section 4582.7, the director shall not approve a timber harvesting plan in any county for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8 until 35 days from the date of filing of the plan, and

timber operations shall not commence until five days from the date of approval of the plan. The board may provide, by regulation, for those periods to be waived or shortened by the department upon a determination, pursuant to criteria and procedures established by the board, that the proposed timber operations will cause no significant environmental damage or threat to public health and safety or to the environment, or that the timber operations are necessary to reduce ~~such a~~ *that* threat. If the chairperson of the board of supervisors of the county in which the proposed timber operations are located notifies the director and the plan submitter that the county intends to appeal the approval of the plan and that the county meets the requirements for filing an appeal, no timber operations shall occur until the final determination of the appeal. If the board of supervisors determines not to appeal the approval of the plan, it shall immediately notify the director and the plan submitter in writing of that determination, and timber operations pursuant to the plan may commence immediately.

(b) (1) The board of supervisors of the county for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8 may, not later than 10 days after approval of the plan by the director, appeal that approval to the board, if the county has both participated in the initial inspection of the plan area with the director and participated in a multidisciplinary review of the plan.

(2) The board may establish procedures for filing the appeal and may specify findings ~~which~~ *that* the board of supervisors is required to make in filing the appeal to demonstrate that a substantial issue is raised with respect to public health and safety or the environment.

(c) The board shall grant to a county that meets the requirements for filing an appeal an initial hearing to consider the county's request for an appeal at the next regularly scheduled board meeting following the receipt of the request.

(d) The board shall grant a ~~a~~ public hearing on the appeal if it determines at an initial hearing pursuant to subdivision (c) that the appeal raises substantial issues with respect to public health and safety or the environment.

(e) (1) The board shall hold a public hearing on the appeal granted pursuant to subdivision ~~(~~ (d) within 30 days from the date

of granting the hearing or at the next regularly scheduled board meeting, whichever occurs first, or within a longer period of time that is mutually agreed upon by the board, the county, and the plan submitter. Upon conclusion of the hearing, the board shall approve or deny the plan. The basis of the board's decision shall be conformance with this section and the rules and regulations of the board, including any rules or regulations enacted with respect to the county pursuant to Section 4516.5 or 4516.8, and this chapter. In denying a plan, the board may make findings that set forth conditions under which it believes that the plan would have been approved.

(2) The board may delegate conduct of the hearing and the decision to a committee of three members to be appointed for that hearing by the chairperson of the board. The committee shall consist of at least two general public members of the board. The chairperson of the board or the chairperson's designee shall conduct the hearing. The decision of the committee shall have the full force and effect of a decision of the full board.

(f) This section does not apply to timber operations on any land area of less than three acres and ~~which~~ *that* is not zoned for timberland production.

SEC. 564. Section 4602.6 of the Public Resources Code is amended to read:

4602.6. *(a)* If a timber operator believes that a forest officer lacked reasonable cause to issue or extend a stop order pursuant to Section 4602.5, the timber operator may present a claim to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* pursuant to Part 3 (commencing with Section 900) of *Division 3.6 of* Title 1 of the Government Code for compensation and damages resulting from the stopping of timber operations.

(b) If the board finds that the forest officer lacked reasonable cause to issue or extend the stop order, the board shall award a sum of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) per day for each day the order was in effect.

SEC. 565. Section 5006.48 of the Public Resources Code is amended to read:

5006.48. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state,

a fee or lesser right or interest in real and personal property in the Counties of Alameda and San Joaquin located approximately 10 miles east of the City of Livermore and commonly known as the Carnegie Cycle Park. If the property is leased, the lease shall be for ~~such~~ *the* term and for ~~such~~ *the* consideration ~~as~~ *that* is ~~mutally~~ *mutually* agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to ~~the provisions of~~ the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The Department of Parks and Recreation shall carry out a program in that unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

(d) The Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding ~~the provisions of~~ Section 15863 of the Government Code, all rent accruing from ~~any such~~ *that* lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

(e) Any fees or other returns collected by the Department of Parks and Recreation in its administration of ~~such~~ *the* unit *referred to in subdivision (c)* shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

SEC. 566. Section 5080.06 of the Public Resources Code is amended to read:

5080.06. For any contract authorizing occupancy by the concessionaire for a period of more than two years of any portion of the state park system, the department shall prepare an invitation to bid, which shall include a summary of the terms and conditions of the concession sufficient to enable persons to bid solely on the basis of rates to be paid to the state. The invitation to bid shall specify the minimum acceptable rent, except in instances in which a minimum acceptable rent cannot be ascertained because of the novelty or uniqueness of the service or facility to be provided or in instances in which the department has determined that a better return to the state can be secured by not specifying a minimum acceptable rent. Bids shall be made only on the basis of the ~~invitition~~ *invitation* to bid.

SEC. 567. Section 5080.36 of the Public Resources Code is amended to read:

5080.36. (a) Notwithstanding any provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, and control of El Presidio de Santa Barbara State Historic Park. The agreement shall include, but is not limited to, the following:

(1) The district superintendent for the department shall provide ~~liasion~~ *liaison* with the department, the nonprofit organization, and the public.

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall include a full accounting of all revenues and expenditures for El Presidio de Santa Barbara State Historic Park.

(3) All revenues received from El Presidio de Santa Barbara State Historic Park shall be expended only for the care,

maintenance, operation, administration, improvement, or development of the unit.

(b) The district superintendent for the department shall, following submittal of the annual report under subdivision (a), hold a public meeting for discussion of the report and any operating policies or procedures. Any recommendation resulting from the annual public meeting shall be submitted by the district superintendent to the director for review and approval.

(c) The general plan for El Presidio de Santa Barbara State Historic Park shall, in addition to the requirements set forth in Section 5002.2, specifically evaluate and define the manner in which the unit is proposed to be operated. The general plan shall be reviewed by the State Park and Recreation Commission for a determination that the unit will be operated in a manner that generally meets the standards followed by the department in its operation of similar units, that enhances the general public use and enjoyment of, and recreational and educational experiences at, the unit, and that provides for the satisfactory management of park resources.

(d) Whenever the department intends to enter into an operating agreement with respect to El Presidio de Santa Barbara State Historic Park, the department shall notify each Member of the Legislature in whose district the unit is located of that intention.

SEC. 568. Section 5096.514 of the Public Resources Code is amended to read:

5096.514. Not more than 10 working days after the close of escrow for a major acquisition of conservation land by an acquisition agency, the acquisition agency shall make available to the public all of the following information, unless it is ~~exempted~~ *exempt* from being disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(a) A copy of the appraisal for the conservation land approved by the Department of General Services, and from which fair market value was determined.

(b) A copy of all other documents relevant to the purchase of the conservation land, including, but not limited to, environmental assessments or other documents not already disclosed pursuant to Section 5096.513.

SEC. 569. Section 5141.1 of the Public Resources Code is amended to read:

5141.1. ~~Any such~~ *A* lease or sublease entered into pursuant to subdivision (c) of Section 5140 shall provide that the net revenue, if any, from the operation and use of the facilities, remaining after the payment of any expenses and costs for maintenance, operation, or management, payment of interest and principal upon any loans made to the nonprofit corporation or association for purposes of maintenance, operation, or management, or any other expenses, and after providing maintenance and operation reserves, shall be paid at least annually to the county. Notwithstanding ~~the provisions of~~ Section 231 of the Revenue and Taxation Code, all ~~such~~ buildings, structures, and facilities, together with the land upon which they are situated, and so much of the surrounding land as is required for their use and occupation, operated by a nonprofit association or corporation pursuant to ~~any such~~ *the* operating lease or sublease, shall be exempt from taxation within the meaning of "charitable purposes" in ~~Section 1c~~ *subdivision (b) of Section 4* of Article XIII of the *California* Constitution ~~of California. Any such~~ *The* lease or sublease shall provide that, upon its expiration and after payment or discharge of its indebtedness and liabilities, all of the assets of the nonprofit association or corporation shall be transferred to the county.

SEC. 570. Section 5366 of the Public Resources Code is amended to read:

5366. The ~~provisions of the~~ State Contract Act *(Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code)* and ~~the provisions of Division 2,~~ Part 7~~,~~ *(commencing with Section 1720) of Division 2* of the Labor Code shall be applicable to this article.

SEC. 571. Section 5671 of the Public Resources Code is amended to read:

5671. The Legislature hereby finds and declares as follows:

(a) There is a great, measurable demand for the provision of increased fishing opportunities in the major metropolitan areas of California.

(b) There is a high concentration of urban social and economic problems in California's major metropolitan areas ~~which~~ *that* can

be partially alleviated by the increased recreational activities and supplemental food sources afforded by fishing opportunities.

(c) In view of the ~~foreging~~ *foregoing*, the Legislature declares that an active, cooperative, and funded urban fishing program should be implemented without delay.

SEC. 572. Section 6314 of the Public Resources Code is amended to read:

6314. (a) ~~Any~~ *A* person who removes, without authorization from the commission, or ~~any~~ *a* person who destroys or damages, an archaeological site or ~~any~~ *a* historic resource~~, which~~ *that* is located on or in the submerged lands of, and ~~which~~ *that* is the property of, the state, is guilty of a misdemeanor ~~and is~~, *which shall be* punishable by imprisonment in ~~the~~ *a* county jail not to exceed six months ~~or~~, a fine not to exceed five thousand dollars ($5,000), or ~~by~~ both *that imprisonment and fine*.

(b) In addition, the commission~~,~~ or, at its request, the Attorney General or a district attorney in whose jurisdiction the violation occurred, may seek civil damages for the damage, loss, or destruction of *an* abandoned ~~shipwrecks~~ *shipwreck*, ~~their~~ *its* gear or cargo, or ~~any~~ *an* archaeological site or historic resource located on or in submerged lands of the state. ~~Any~~ *A* vessel used to damage, destroy, or cause the loss of~~, any such~~ *the* shipwreck ~~or~~, archaeological site, or historic resource is subject to a proceeding in rem by the state for the costs and damages resulting from that damage, destruction, or loss. Enforcement may include, where appropriate, a restraining order or injunctive relief to restrain and enjoin violations or threatened violations of Section 6309, Section 6313, or this section and for the return of items taken in violation of these sections.

(c) ~~Any~~ *An* artifact, *an* object, or material ~~which~~ *that* has been removed from a state submerged archaeological site or submerged historic resource, as specified in subdivision (a), and ~~which~~ *that* is found in ~~any~~ *a* watercraft occupied by persons who do not hold a permit as required by Section 6309 or ~~Section~~ 6313 or other reasonable evidence of legal possession, is prima ~~facia~~ *facie* evidence of *a* violation of that section and the artifact, object, or material may be confiscated by ~~any~~ *a* state, federal, or local law enforcement officer. ~~Artifacts, objects, or materials~~ *An artifact, an object, or material* confiscated ~~under~~ *pursuant to* this section shall be returned to the person claiming ownership~~,~~

within 30 days of ~~their~~ *its* confiscation, unless a prosecuting attorney determines that ~~they are~~ *it is* required as evidence in the prosecution of a criminal violation.

(d) In ~~any~~ *a* case in which a district attorney, at the request of the commission, or with its concurrence, enforces subdivision (a), the commission shall, notwithstanding Section 1463 of the Penal Code, be entitled to an equal division of the fine imposed.

(e) All state and local law enforcement agencies and officers are directed to assist in enforcing this section, and are requested to work with and seek the cooperation of federal law enforcement agencies, including deputizing federal officers when appropriate.

SEC. 573. Section 6925.2 of the Public Resources Code is amended to read:

6925.2. Notwithstanding any other provision of this article, the commission may, at its discretion, issue a lease to the first qualified applicant for a parcel of less than 640 acres if the geothermal resources to be developed on this parcel are utilized entirely for purposes other than electricity generation. The terms, conditions, rentals, ~~royalities~~ *royalties*, drilling requirements, and development programs of ~~such~~ *those* leases shall be as determined by the commission. If there is an existing geothermal resources lease or permit for ~~such~~ *the* land, the applicant shall obtain the permission of the lessee or permittee.

SEC. 574. Section 8710 of the Public Resources Code is amended to read:

8710. ~~Actions~~ *An action* under this division ~~are~~ *is* not subject to the California Environmental Quality Act (Division 13 (commencing with Section ~~21000)~~ *21000))*, the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

SEC. 575. Section 9084 of the Public Resources Code is amended to read:

9084. (a) Subject to the availability of funds and any limitations imposed by this division, the department may provide grants to resource conservation districts for the purpose of assisting the districts in carrying out any work that they are

authorized to undertake, including, but not limited to, grants for watershed projects.

(b) (1) To qualify for a grant under subdivision (a), a resource conservation district ~~may, until January 1, 2000, and~~ shall~~, on and after January 1, 2000,~~ do all of the following:

(A) Prepare an annual and a long-range work plan pursuant to Section 9413. The long-range work plan shall reflect input from local agencies and organizations regarding land use and resource conservation goals.

(B) Convene regular meetings in accordance with the open meeting requirements of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code and the requirements of this division.

(C) Secure sources of local support funding, which may include funding from in-kind contributions and services.

(2) A resource conservation district seeking a grant pursuant to this section ~~may, until January 1, 2000, and~~ shall~~, on and after January 1, 2000,~~ submit to the department a grant proposal that includes, but is not limited to, all of the following information:

(A) A description of the work for which the grant is sought.

(B) An explanation of the public or private need for the work, including, but not limited to, any ~~revelant~~ *relevant* information demonstrating the urgency of the project.

(C) An itemized summary of the projected cost of the work.

(D) An estimate of the amount of the projected costs of the work that will be covered by local support funding, including funding from in-kind contributions or services.

(3) To qualify for a grant awarded pursuant to this section, a resource conservation district ~~may, until January 1, 2000, and~~ shall~~, on and after January 1, 2000,~~ be required to provide at least a 25 percent local match of funding, of which 40 percent of that amount shall be provided in cash. The department shall give preference in the awarding of grants to those districts that, among other things, provide a greater percentage of local match funding than the minimum required by this paragraph.

(4) A resource conservation district that receives a grant awarded under this section ~~may, until January 1, 2000, and~~ shall~~, on and after January 1, 2000,~~ provide the department with an informal accounting summary that describes how the grant

money was spent in accordance with the purposes and conditions of the grant.

~~(5) Prior to January 1, 2000, the department may, in making grants to a district pursuant to subdivision (a), take into consideration whether, and to what extent, the district has chosen to exercise the authority provided in paragraphs (1) to (4), inclusive.~~

SEC. 576. Section 21080.24 of the Public Resources Code is amended to read:

21080.24. *(a)* This division does not apply to the issuance, modification, amendment, or renewal of ~~any~~ *a* permit by an air pollution control district or air quality management district pursuant to Title V, as defined in Section 39053.3 of the Health and Safety Code, or pursuant to a district Title V program established ~~under~~ *pursuant to* Sections 42301.10, 42301.11, and 42301.12 of the Health and Safety Code, unless the issuance, modification, amendment, or renewal authorizes a physical or operational change to a source or facility.

(b) Nothing in this section is intended to result in the application of this division to ~~any~~ *a* physical or operational change ~~which~~ *that*, prior to January 1, 1995, was not subject to this division.

SEC. 577. Section 21151.1 of the Public Resources Code is amended to read:

21151.1. (a) Notwithstanding paragraph (6) of subdivision (b) of Section 21080, or Section 21080.5 or 21084, or any other provision of law, except as provided in this section, a lead agency shall prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report or, if appropriate, a modification, addendum, or supplement to an existing environmental impact report, for ~~any~~ *a* project involving any of the following:

(1) (A) The burning of municipal wastes, hazardous waste, or refuse-derived fuel, including, but not limited to, tires, if the project is either of the following:

(i) The construction of a new facility.

(ii) The expansion of an existing facility that burns hazardous waste that would increase its permitted capacity by more than 10 percent.

(B) This paragraph does not apply to ~~any~~ *a* project exclusively burning hazardous waste, for which a final determination under Section 21080.1 has been made prior to July 14, 1989.

(2) The initial issuance of a hazardous waste facilities permit to a land disposal facility, as defined in subdivision (d) of Section 25199.1 of the Health and Safety Code.

(3) The initial issuance of a hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code to an offsite large treatment facility, as defined pursuant to subdivision (d) of Section 25205.1 of the Health and Safety Code.

(4) A base reuse plan as defined in Section ~~21083.8 or~~ 21083.8.1. The Legislature hereby finds that no reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution for an environmental impact report for a base reuse plan if an environmental impact report is otherwise required for that base reuse plan pursuant to any other provision of this division.

(b) For purposes of clause (ii) of subparagraph (A) ~~of subparagraph (B)~~ of paragraph (1) of subdivision (a), the amount of expansion of an existing facility shall be calculated by comparing the proposed facility capacity with whichever of the following is applicable:

(1) The facility capacity authorized in the facility's hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code or its grant of interim status pursuant to Section 25200.5 of the Health and Safety Code, or the facility capacity authorized in ~~any~~ *a* state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted before January 1, 1990.

(2) The facility capacity authorized in the facility's original hazardous waste facilities permit, grant of interim status, or ~~any~~ *a* state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

(c) For purposes of paragraphs (2) and (3) of subdivision (a), the initial issuance of a hazardous waste facilities permit does not include the issuance of a closure or postclosure permit pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(d) Paragraph (1) of subdivision (a) does not apply to ~~any~~ *a* project that does any of the following:

(1) Exclusively burns digester gas produced from manure or any other solid or semisolid animal waste.

(2) Exclusively burns methane gas produced from a disposal site, as defined in Section 40122, that is used only for the disposal of solid waste, as defined in Section 40191.

(3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

(4) Exclusively burns hazardous waste in an incineration unit that is transportable and that is either at a site for not longer than three years or is part of a remedial or removal action. For purposes of this paragraph, "transportable" means any equipment that performs a "treatment" as defined in Section 66216 of Title 22 of the California Code of Regulations, and that is transported on a vehicle as defined in Section 66230 of Title 22 of the California Code of Regulations, *as those sections read on June 1, 1991*.

(5) Exclusively burns refinery waste in a flare on the site of generation.

(6) Exclusively burns in a flare methane gas produced at a municipal sewage treatment plant.

(7) Exclusively burns hazardous waste, or exclusively burns hazardous waste as a supplemental fuel, as part of a research, development, or demonstration project that, consistent with federal regulations implementing the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), has been determined to be innovative and experimental by the Department of Toxic Substances Control and that is limited in type and quantity of waste to that necessary to determine the efficacy and performance capabilities of the technology or process~~; provided, however, that any~~. *However, a* facility that operated as a research, development, or demonstration project and for which an application is thereafter submitted for a hazardous waste facility permit for operation other than as a research, development, or demonstration project shall be considered a new facility for the burning of hazardous waste and shall be subject to subdivision (a) of Section 21151.1.

(8) Exclusively burns soils contaminated only with petroleum fuels or the vapors from these soils.

(9) Exclusively treats less than 3,000 pounds of hazardous waste per day in a thermal processing unit operated in the absence of open flame, and submits a worst-case health risk assessment of the technology to the Department of Toxic Substances Control for review and distribution to the interested public. This assessment shall be prepared in accordance with guidelines set forth in the Air Toxics Assessment Manual of the California Air Pollution Control Officers Association.

(10) Exclusively burns less than 1,200 pounds per day of medical waste, as defined in Section 117690 of the Health and Safety Code, on hospital sites.

(11) Exclusively burns chemicals and fuels as part of firefighter training.

(12) Exclusively conducts open burns of explosives subject to the requirements of the air pollution control district or air quality management district and in compliance with OSHA and Cal-OSHA regulations.

(13) Exclusively conducts onsite burning of less than 3,000 pounds per day of fumes directly from a manufacturing or commercial process.

(14) Exclusively conducts onsite burning of hazardous waste in an industrial furnace that recovers hydrogen chloride from the flue gas if the hydrogen chloride is subsequently sold, distributed in commerce, or used in a manufacturing process at the site where the hydrogen chloride is recovered, and the burning is in compliance with the requirements of the air pollution control district or air quality management district and the Department of Toxic Substances Control.

(e) Paragraph (1) of subdivision (a) does not apply to ~~any~~ *a* project for which the State Energy Resources Conservation and Development Commission has assumed jurisdiction under Chapter 6 (commencing with Section 25500) of Division 15.

(f) Paragraphs (2) and (3) of subdivision (a) ~~shall~~ *do* not apply if the facility only manages hazardous waste that is identified or listed pursuant to Section 25140 or 25141 *of the Health and Safety Code* on or after January 1, 1992, but not before that date, or only conducts activities that are regulated pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code on or after January 1, 1992, but not before that date.

(g) This section does not exempt ~~any~~ *a* project from any other requirement of this division.

(h) For purposes of this section, offsite facility means a facility that serves more than one generator of hazardous waste.

SEC. 578. Section 21167.1 of the Public Resources Code is amended to read:

21167.1. (a) In all actions or proceedings brought pursuant to Sections 21167, 21168, and 21168.5, including the hearing of an action or proceeding on appeal from a decision of a lower court, all courts in which the action or proceeding is pending shall give the action or proceeding preference over all other civil actions, in the matter of setting the action or proceeding for hearing or trial, and in hearing or trying the action or proceeding, so that the action or proceeding shall be quickly heard and determined. The court shall regulate the briefing schedule so that, to the extent feasible, the court shall commence hearings on an appeal within one year of the date of the filing of the appeal.

(b) To ensure that actions or proceedings brought pursuant to Sections 21167, 21168, and 21168.5 may be quickly heard and determined in the lower courts, the superior courts in all counties with a population of more than 200,000 shall designate one or more judges to develop expertise in this division and related land use and environmental laws, so that those judges will be available to hear, and quickly resolve, actions or proceedings brought pursuant to Sections 21167, 21168, and 21168.5.

(c) In ~~any~~ *an* action or proceeding filed pursuant to this chapter that is joined with any other cause of action, the court, upon a motion by any party, may grant severance of the actions. In determining whether to grant severance, the court shall consider such ~~as~~ matters *as* judicial economy, administrative economy, and prejudice to any party.

SEC. 579. Section 25135 of the Public Resources Code is amended to read:

25135. "Conversion" means the processes by which residue is converted to a more usable energy form, including, but not limited to, combustion, ~~anerobic~~ *anaerobic* digestion, and pyrolysis, and is used for heating, process heat applications, and electric power generation.

SEC. 580. Section 25302.5 of the Public Resources Code is amended to read:

25302.5. (a) As part of each integrated energy policy report required pursuant to Section 25302, each entity that serves or plans to serve electricity to retail customers, including, but not limited to, electrical corporations, nonutility electric service providers, community choice aggregators, and local publicly owned electric utilities, shall provide the commission with its forecast of both of the following:

(1) The amount of its forecasted load that may be lost or added by any of the following:

(A) A community choice aggregator.

(B) An existing local publicly owned electric utility.

(C) A newly formed local publicly owned electric utility.

(2) Load that will be served by an electric service provider.

(b) The commission shall perform an assessment in the service territory of each electrical corporation of the loss or addition of load described in this section and submit the results of the assessment to the Public Utilities Commission.

(c) Notwithstanding subdivision (a), the commission may exempt from the forecasting requirements in that subdivision, a local publicly owned electric utility that is not planning to acquire additional load beyond its existing exclusive service territory within the forecast period provided by the commission pursuant to Section 25303.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Community choice aggregator" means any "community choice aggregator" as defined in Section 331.1 of the Public Utilities Code.

(2) "Electrical corporation" means any "electrical corporation" as defined in Section 218 of the Public Utilities Code.

(3) "Electric service provider" means any "electric service provider" as defined in Section 218.3 of the Public Utilities Code.

(4) "Local publicly owned electric utility" means any "local publicly owned electric utility" as defined in Section 9604 of the Public Utilities Code.

SEC. 581. Section 26032 of the Public Resources Code is amended to read:

26032. The authority may enter into contracts of sale with any participating party ~~convering~~ *covering* any project financed

by the authority. The purchase price pursuant to ~~such~~ *the* contract of sale shall be treated in substantially the same manner and shall be at least sufficient to provide funds for all the purposes provided in Section 26031 and may be paid in installments, together with interest on the unpaid balance, or otherwise, as may be mutually agreed and set forth in ~~such~~ *the* contract of sale. All payments received by the authority under any installment sales or conditional sales contract shall be applied by the authority substantially in the same manner as ~~hereinabove~~ provided in Section 26031 in the case of lease payments or rental charges received by the authority.

SEC. 582. Section 26569.5 of the Public Resources Code is amended to read:

26569.5. A district formed under this chapter shall be comprised of an area within a local agency ~~which~~ *that* is specially benefited by, and is subject to a special assessment to pay ~~of~~ the cost of, an improvement. The district is not an entity separate and distinct from the local agency within which it is formed.

SEC. 583. Section 29305 of the Public Resources Code is amended to read:

29305. The Wildlife Conservation Board shall acquire title to, or a lesser right or interest in, ~~in such~~ land or water ~~as~~ *that* the board determines is appropriate for the purposes of the protection plan~~; and, when~~. *When* authorized by the board, the department shall construct ~~such~~ facilities ~~as~~ *that* are suitable for the purpose for which ~~such~~ *the* acquisitions were made. ~~Such~~ *The* acquisitions shall be made in accordance with the Wildlife Conservation Law of 1947 *(Chapter 4* (commencing with Section ~~1300~~ *1300) of Division 2* of the Fish and Game Code) and the criteria specified in Section 29009 of this ~~division~~ *code*.

SEC. 584. Section 29735 of the Public Resources Code is amended to read:

29735. There is hereby created the Delta Protection Commission, consisting of 19 members as follows:

(a) One member of the board of supervisors of each of the five counties within the delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of the county.

(b) Three elected city council members shall be selected and appointed by city selection committees, from regional and area councils of government, one in each of the following areas:

(1) One from the north delta, consisting of the Counties of Yolo and Sacramento.

(2) One from the south delta, consisting of the County of San Joaquin.

(3) One from the west delta, consisting of the Counties of Contra Costa and Solano.

(c) (1) One member each from the board of directors of five different reclamation districts ~~which~~ *that* are located within the primary zone who are residents of the delta, and who are elected by the trustees of ~~reclamations~~ *the reclamation* districts within the following areas:

(A) Two members from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.

(B) One member from the west delta consisting of the area of Contra Costa County within the delta.

(C) One member from the area of the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).

(D) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).

(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. For purposes of this section, each reclamation district shall have one vote. The north delta area shall conduct separate votes to select each of its two members.

(d) The Director of Parks and Recreation or the director's sole designee.

(e) The Director of Fish and Game or the director's sole designee.

(f) The ~~Director~~ *Secretary* of Food and Agriculture or the ~~director's~~ *secretary's* sole designee.

(g) The executive officer of the State Lands Commission or the executive officer's sole designee.

(h) The Director of Boating and Waterways or the director's sole designee.

(i) The Director of Water Resources or the director's sole designee.

SEC. 585. Section 30118.5 of the Public Resources Code is amended to read:

30118.5. "Special treatment area" means an identifiable and geographically bounded forested area within the coastal zone that ~~constitute~~ *constitutes* a significant habitat area, area of special scenic significance, and any land where logging activities could adversely ~~effect~~ *affect a* public recreation area or the biological productivity of any wetland, estuary, or stream especially valuable because of its role in a coastal ~~ecosytem~~ *ecosystem*.

SEC. 586. Section 30166 of the Public Resources Code is amended to read:

30166. In Los Angeles County:

(a) In three locations within the Santa Monica Mountains, the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on maps 22, 23, and 24.

(b) In the Temescal Canyon watershed in the City of Los Angeles, all lands owned or controlled by the Presbyterian Synod, the University of California, the Los Angeles County Sanitation District, and the Los Angeles Unified School District are added.

(c) In the Cities of Los Angeles and El Segundo, the areas east of Vista del Mar that include the Scattergood Steam Plant, the Hyperion Sewage Treatment Plant, and portions of an oil refinery are excluded as specifically shown on map 25. In adopting this boundary change, the Legislature specifically reaffirms the existing location of the coastal zone boundary in the Venice area of the City of Los Angeles.

(d) In the City of Manhattan Beach, approximately 140 acres, and in the City of Hermosa Beach, approximately 170 acres, are excluded as specifically shown on ~~map~~ maps 25 and 26.

(e) In the City of Palos Verdes Estates, approximately 95 acres landward of Paseo del Mar are excluded as specifically shown on map 26.

(f) In the City of Long Beach, the area near Colorado Lagoon is excluded as specifically shown on map 27.

(g) In the City of Long Beach, the area commencing at the intersection of the existing coastal zone boundary at Colorado Street and Pacific Coast Highway, thence southerly along Pacific Coast Highway to the intersection of Loynes Drive, thence easterly along Loynes Drive to the intersection of Los Cerritos Channel, thence northerly along Los Cerritos Channel to the existing coastal zone boundary, is excluded as specifically shown on map 27A.

SEC. 587. Section 30170 of the Public Resources Code is amended to read:

30170. In San Diego County:

(a) In the City of Oceanside, approximately 500 acres are excluded as specifically shown on maps 30A and 31.

(b) In the City of Carlsbad, approximately 180 acres in the downtown area, except for the Elm Street corridor, are excluded as specifically shown on map 31.

(c) In the City of Carlsbad, the area lying north of the Palomar Airport as generally shown on maps 31 and 32 and as specifically described in this subdivision is excluded.

Those portions of lots "F" and "G" of Rancho Agua Hedionda, part in the City of Carlsbad and part in the unincorporated area of the County of San Diego, State of California, according to the partition map thereof No. 823, filed in the office of the county recorder of ~~such~~ *that* county, November 16, 1896, described as follows:

Commencing at point 1 of said lot "F" as shown on said map; thence along the boundary line of said lot "F" south 25° 33′ 56″ east, 229.00 feet to point 23 of said lot "F" and south 54° 40′ 19″ east, 1347.00 feet; thence leaving said boundary line south 35° 19′ 44″ west, 41.28 feet to the true point of beginning, which point is the true point of beginning, of the land described in deed to Japatul Corporation recorded December 8, 1975, at recorder's file/page No. 345107 of official records to said county; thence along the boundary line of said land south 35° 19′ 44″ west, 2216.46 feet and north 53° 02′ 49″ west, 1214.69 feet to the northeast corner of the land described in deed to Japatul Corporation recorded December 8, 1975, at recorder's file/page No. 345103 of said official records; thence along the boundary

lines of said land as follows: West, 1550 feet, more or less, to the boundary of said lot "F"; south 00° 12′ 00″ west, 550 feet, more or less, to point 5 of said lot "F"; south 10° 25′ 10″ east along a straight line between said point 5 and point 14 of said lot ~~"F",~~ *"F,"* to point 14 of said lot "F"~~:~~*;* thence along the boundary of said lot "F" south 52° 15′ 45″ east (record south 51° 00′ 00″ east) 1860.74 feet more or less to the most westerly corner of the land conveyed to James L. Hieatt, et ux, by deed recorded June 11, 1913, in Book 617, page 54 of deed, records of said county; thence along the northwesterly and northeasterly boundary of Hieatt's land as follows: North 25° 00′ 00″ east, 594.00 feet and south 52° 15′ 45″ east (record south 51° 00′ 00″ east per deed) 1348.61 feet to a point of intersection with the northerly line of Palomar County Airport, said point being on the boundary of the land conveyed to Japatul Corporation by deed recorded December 8, 1975, at recorder's file/page No. 345107 of said official records; thence along said boundary as follows: North 79° 10′ 00″ east, 4052.22 feet north 10° 50′ 00″ west, 500.00 feet; north 79° 10′ 00″ east 262.00 feet, south 10° 50′ 00″ east, 500.00 feet; north 79° 10′ 00″ east, 1005 feet, more or less, to the westerly line of the land conveyed to the County of San Diego by deed recorded May 28, 1970, at recorder's file/page No. 93075 of said official records; thence continuing along the boundary of last said Japatul Corporation's land north 38° 42′ 44″ west, 2510.58 feet to the beginning of a tangent 1845.00 foot radius curve concave northeasterly; along the arc of said curve through a central angle of 14° 25′ 52″ a distance of 464.70 feet to a point of the southerly boundary of the land allotted to Thalia Kelly Considine, et al., by partial final judgment in partition, recorded January 18, 1963, at recorder's file/page No. 11643 of said official records; thence continuing along last said Japatul Corporation's land south 67° 50′ 28″ west, 1392.80 feet north 33° 08′ 52″ west, 915.12 feet and north 00° 30′ 53″ west, 1290.37 feet to the southerly line of said land conveyed to the County of San Diego, being also the northerly line of last said Japatul Corporation's land; thence along said common line north 74° 57′ 25″ west, 427.67 feet to the beginning of a tangent 2045.00 foot radius curve concave northerly; and westerly along the arc of said curve through a central angle of 16° 59′ 24″, a distance of 606.41 feet to the true point of beginning.

And those properties known as assessors parcel Nos. 212-020-08, 212-020-22, and 212-020-23.

Excepting therefrom, that portion, if any, conveyed to the County of San Diego, by quitclaim deed recorded January 12, 1977, at recorder's file/page No. 012820 of said official records.

No development may occur in the area described in this subdivision until a plan for drainage of the parcel to be developed has been approved by the local government having jurisdiction over the area after consultation with the commission and the Department of Fish and Game. The plan shall assure that no detrimental increase occurs in runoff of water from the parcel to be developed and shall require that the facilities necessary to implement the plan are installed as part of the development.

(d) In the City of Carlsbad and adjacent unincorporated areas, approximately 600 acres consisting of the Palomar Airport and an adjoining industrial park are excluded as specifically shown on maps 31 and 32.

(e) An area consisting of approximately 333 acres lying west and south of the Palomar Airport and bounded on the south by Palomar Airport Road is excluded as specifically shown on maps 31 and 32.

No development may occur in the area described in this subdivision until a plan for drainage of the parcel to be developed has been approved by the local government having jurisdiction over the area after consultation with the commission and the Department of Fish and Game. The plan shall assure that no detrimental increase occurs in runoff of water from the parcel to be developed and shall require that the facilities necessary to implement the plan are installed as part of the development.

(f) On or before October 1, 1980, the commission shall, after public hearing and in consultation with the City of Carlsbad, prepare, approve, and adopt a local coastal program for the following parcels in the vicinity of Batiquitos Lagoon within the City of Carlsbad: lands owned by Rancho La Costa, a registered limited partnership, lands (consisting of approximately 80 acres) owned by Standard Pacific of San Diego, Inc., that were conveyed by Rancho La Costa on October 8, 1977, and lands owned by the Occidental Petroleum Company. ~~Such~~ *Those* parcels shall be determined by ownership as of September 12, 1979. As used in this subdivision, "parcels" means the parcels

identified in this paragraph. The local coastal program required by this subdivision shall include all of the following elements:

(1) Protection of agricultural lands and uses to the extent feasible.

(2) Minimization of adverse impacts from sedimentation.

(3) Protection of feasible public recreational opportunities.

(4) Provision for economically feasible development consistent with the three elements specified in this subdivision.

The local coastal program required by this subdivision shall, after adoption by the commission, be deemed certified and shall for all purposes of this division constitute certified local coastal program segments for those parcels in the City of Carlsbad. The segments of the city's local coastal program for those parcels may be amended pursuant to the provisions of this division relating to the amendment of local coastal programs. In addition, until ~~such time as~~ (i) the City of Carlsbad adopts or enacts the implementing actions contained in ~~any such~~ *the* local coastal program, or (ii) other statutory provisions provide alternately for the adoption, certification, and implementation of a local coastal program for those parcels, the local coastal program required by this subdivision may also be amended by the commission at the request of the owner of any of those parcels. For administrative purposes, the commission may group these requests in order to schedule them for consideration at a single commission hearing~~;~~ ~~provided, however, that~~. *However,* the commission shall schedule these requests for consideration at least once during each four-month period, beginning January 1, 1982. After either of these events occur, however, these property owners shall no longer be eligible to request the commission to amend the local coastal program.

If the commission fails to adopt ~~such~~ *a* local coastal program within the time limits specified in this subdivision, those parcels shall be excluded from the coastal zone and shall no longer be subject to ~~the provisions of~~ this division. It is the intent of the Legislature in enacting this subdivision that a procedure to expedite the preparation and adoption of a local coastal program for those parcels be established so that the public and affected property owners know as soon as possible what the permissible uses of ~~such~~ *those* lands are.

(g) In the vicinity of the intersection of Del Mar Heights Road and the San Diego Freeway, approximately 250 acres are excluded as specifically shown on map 33.

(h) In the vicinity of the intersection of Carmel Valley Road and the San Diego Freeway, approximately 45 acres are added as specifically shown on map 33.

In the City of San Diego, the Carmel Valley area consisting of approximately 1,400 acres as shown on map 33 ~~which~~ *that* has been placed on file with the Secretary of State on January 23, 1980, shall be excluded from the coastal zone after the City of San Diego submits, and the commission certifies, a drainage plan and a transportation plan for the area. The city shall implement and enforce the certified drainage and transportation plans. Any amendments or changes to the underlying land use plan for the area that affects drainage, or to either the certified drainage or transportation plan, shall be reviewed and processed in the same manner as an amendment of a certified local coastal program pursuant to Section 30514. Any land use not in conformance with the certified drainage and transportation plans may be appealed to the commission pursuant to the appeals procedure as provided by Chapter 7 (commencing with Section 30600). The drainage plan and any amendments thereto shall be prepared after consultation with the Department of Fish and Game and shall ensure that problems resulting from water runoff, sedimentation, and siltation are adequately identified and resolved.

(i) Near the head of the south branch of Los Penasquitos Canyon, the boundary is moved seaward to the five-mile limit as described in Section 30103 and as specifically shown on map 33.

(j) In the City of San Diego, approximately 1,855 acres known as the Mount Soledad and La Jolla Mesa areas are added as specifically shown on map 34~~; provided, however, that~~. *However,* on or before February 29, 1980, and pursuant to either subdivision (d) of Section 30610 or Section 30610.5, the commission shall exclude from coastal development permit requirements any single-family residence within the area specified in this subdivision. No coastal development permit shall be required for any improvement, maintenance activity, relocation, or reasonable expansion of any commercial radio or television transmission facilities within the area specified in this subdivision unless ~~any such~~ *the* proposed activity could result in

a significant change in the density or intensity of use in ~~such~~ *the* area or could have a significant adverse impact on highly scenic resources of public importance~~; provided, however, that~~. *However,* no prior review by the commission of ~~any such~~ *this* activity shall be required.

(k) In the City of San Diego, approximately 30 acres known as the Famosa Slough is added as specifically shown on maps 34 and 35.

SEC. 588. Section 30171.2 of the Public Resources Code is amended to read:

30171.2. (a) Except as provided in subdivision (b), on and after January 1, 1985, no agricultural conversion fees may be levied or collected under the agricultural subsidy program provided in the local coastal program of the City of Carlsbad ~~which~~ *that* was adopted and certified pursuant to Section 30171. All other provisions of that program shall continue to be operative, including the right to develop designated areas as provided in the program.

(b) This section shall not affect any right or obligation under any agreement or contract entered into prior to January 1, 1985, pursuant to that agricultural subsidy program, including the payment of any fees and the right of development in accordance with the provisions of ~~any such~~ *the* agreement or contract. As to these properties, the agricultural subsidy fees in existence as of December 31, 1984, shall be paid and allocated within the City of Carlsbad, or on projects outside the city ~~which~~ *that* benefit agricultural programs within the city, in accordance with the provisions of the agricultural subsidy program as it existed on September 30, 1984.

(c) Any agricultural conversion fees collected pursuant to the agricultural subsidy program and not deposited in the agricultural improvement fund in accordance with the local coastal program or ~~which~~ *that* have not been expended in the form of agricultural subsidies assigned to landowners by the local coastal program land use policy plan on January 1, 1985, shall be used by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* to reimburse the party ~~which~~ *that* paid the fees if no agreements or contracts have been entered into or to the original parties to the agreements or contracts referred to in subdivision (b) in proportion to the amount of fees paid by the

parties. However, if the property subject to the fee was under option at the time that the original agreement or contract was entered into and the optionee was a party to the agricultural subsidy agreement, payments allocable to that property shall be paid to the optionee in the event the optionee has exercised the option. Reimbursements under this section shall be paid within 90 days after January 1, 1985, or payment of the fee, whichever occurs later, and only after waiver by the party being reimbursed of any potential legal rights resulting from enactment of this section.

(d) *(1)* Any person entitled to reimbursement of fees under subdivision (c) shall file a claim with the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board,* which shall determine the validity of the claim and pay that person a pro rata share based on the relative amounts of fees paid under the local coastal program or any agreement or contract entered pursuant thereto.

(2) There is hereby appropriated to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* the fees referred to in subdivision (c), for the purpose of making refunds under this section.

(e) Notwithstanding any geographical limitation contained in this division, funds deposited pursuant to subdivision (b) may be expended for physical or institutional development improvements needed to facilitate long-term agricultural production within the City of Carlsbad. These funds may be used to construct improvements outside the coastal zone boundaries in San Diego County if the improvements are not inconsistent with the Carlsbad local coastal program and the State Coastal Conservancy determines that the improvements will benefit agricultural production within the coastal zone of the City of Carlsbad.

SEC. 589. Section 30222.5 of the Public Resources Code is amended to read:

30222.5. ~~Ocean front~~ *Oceanfront* land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

SEC. 590. Section 30315.1 of the Public Resources Code is amended to read:

30315.1. Adoption of findings for any action taken by the commission requires a majority vote of the members from the prevailing side present at the meeting of the commission, with ~~a~~ *at* least three of the prevailing members present and voting.

SEC. 591. Section 30608 of the Public Resources Code is amended to read:

30608. ~~(a)~~ No person who has obtained a vested right in a development prior to the effective date of this division or who has obtained a permit from the California Coastal Zone Conservation Commission pursuant to the California Coastal Zone Conservation Act of 1972 *(former Division 18* (commencing with Section ~~27000)~~ *27000))* shall be required to secure approval for the development pursuant to this division~~; provided, however, that~~. *However,* no substantial change may be made in ~~any such~~ *the* development without prior approval having been obtained under this division.

SEC. 592. Section 30610.4 of the Public Resources Code is amended to read:

30610.4. *(a)* Upon establishment of an acquisition cost pursuant to subdivision (f) of Section 30610.3, the commission shall review the area in question to determine if all or some portion of that area meets the criteria specified in subdivision (b) of Section 30610.1 for areas within which no coastal development permit will be required from the commission for construction of single-family residences. Notwithstanding paragraph (1) of subdivision (c) of Section 30610.1, lots, other than those immediately adjacent to any beach or to the mean high tide line where there is no beach, can be included in ~~such an~~ *this* exclusion area. If the commission determines an area designated pursuant to subdivision (b) of Section 30610.3 meets that criteria, the area shall be designated as one wherein no coastal development permit from the commission shall be required for the construction of single-family residences.

(b) Prior to the commencement of construction of any single-family residence within an area designated pursuant to this section, a certificate of exemption must be obtained pursuant to Section 30610.2 and the appropriate “in-lieu” public access fee shall be paid.

SEC. 593. Section 30610.6 of the Public Resources Code is amended to read:

30610.6. (a) The Legislature hereby finds and declares that it is in the public interest to provide by statute for the resolution of the lengthy and bitter dispute involving development of existing legal lots within the unincorporated area of Sonoma County, commonly known as the Sea Ranch. The reasons for the need to finally resolve this dispute include *the following*:

(1) Acknowledgment by the responsible regulatory agencies that development of existing lots at Sea Ranch can proceed consistent with the provisions of this division and other applicable laws provided certain conditions have been met. Development has been prevented at considerable costs to property owners because these conditions have not been met.

(2) That it has been, and continues to be, costly to Sea Ranch property owners and the public because of, among other reasons, extensive and protracted litigation, continuing administrative proceedings, and escalating construction costs.

(3) The need to provide additional public access to and along portions of the coast at the Sea Ranch in order to meet the requirements of this division. The continuation of this dispute prevents the public from enjoying the use of ~~such~~ *those* access opportunities.

(4) The commission is unable to refund 118 "environmental deposits" to property owners because coastal development permit conditions have not been met.

(5) It appears likely that this lengthy dispute will continue unless the Legislature provides a solution, and the failure to resolve the dispute will be unfair to property owners and the public.

(b) The Legislature further finds and declares that because of the unique circumstances of this situation, the provisions of this section constitute the most expeditious and equitable mechanism to ensure a timely solution that is in the best interest of property owners and that is consistent with ~~the requirements of~~ this division.

(c) If the Sea Ranch Association and Oceanic California, Inc. desire to take advantage of the terms of this section, they shall, not sooner than April 1, 1981, and not later than July 1, 1981, deposit into escrow deeds and other necessary documents that

have been determined by the State Coastal Conservancy prior to their deposit in escrow to be legally sufficient to convey to the State Coastal Conservancy enforceable and nonexclusive public use easements free and clear of liens and encumbrances for the easements specifically described in this subdivision. Upon deposit of five hundred thousand dollars ($500,000) into the same escrow account by the State Coastal Conservancy, but in no event later than 30 days after ~~such~~ *the* deeds and other necessary documents have been deposited in the escrow account, the escrow agent shall transmit the five hundred thousand dollars ($500,000), less the escrow, title, and administrative costs of the State Coastal Conservancy, in an amount not to exceed twenty thousand dollars ($20,000), to the Sea Ranch Association and shall convey ~~such~~ *the* deeds and other necessary documents to the State Coastal Conservancy. The conservancy shall subsequently convey ~~such~~ *the* deeds and other necessary documents to an appropriate public agency that is authorized and agrees to accept ~~such~~ *the* easements. The deeds specified in this subdivision shall be for the following easements:

(1) In Unit 34A, a 30-foot wide vehicle and pedestrian access easement from a point on State Highway 1, 50 feet north of mile post marker 56.75, a day parking area for 10 vehicles, a 15-foot wide pedestrian accessway from the parking area continuing west to the bluff-top trail, and a 15-foot wide bluff-top pedestrian easement beginning at the southern boundary of Gualala Point County Park and continuing for approximately three miles in a southerly direction to the sandy beach at the northern end of Unit 28 just north of Walk-on Beach together with a 15-foot wide pedestrian easement to provide a connection to Walk-on Beach to the south.

(2) In Unit 24, a day parking area west of State Highway 1, just south of Whalebone Reach, for six vehicles, and a 15-foot wide pedestrian accessway over Sea Ranch Association common areas crossing Pacific Reach and continuing westerly to the southern portion of Shell Beach with a 15-foot wide pedestrian easement to connect with the northern portion of Shell Beach.

(3) In Unit 36, a 30-foot wide vehicle and pedestrian accessway from State Highway 1, mile post marker 53.96, a day parking area for 10 vehicles, and a 15-foot wide pedestrian

accessway from the parking area to the beach at the intersection of Units 21 and 36.

(4) In Unit 17, adjacent to the intersection of Navigator's Reach and State Highway 1, 75 feet north of mile post marker 52.21, enough land to provide day parking for four vehicles and a 15-foot wide pedestrian accessway from the parking area to Pebble Beach.

(5) In Unit 8, a 30-foot wide vehicle and pedestrian accessway from State Highway 1, mile post marker 50.85, a day parking area for 10 vehicles and a 15-foot wide pedestrian accessway from the parking area to Black Point Beach.

(6) With respect to each of the beaches to which access will be provided by the easements specified in this subdivision, ~~a~~ *an* easement for public use of the area between the line of mean high tide and either the toe of the adjacent bluff or the first line of vegetation, whichever is nearer to the water.

(7) Scenic view easements for those areas specified by the executive director, as provided in subdivision (d), and which easements allow for the removal of trees in order to restore and preserve scenic views from State Highway 1.

(d) The executive director of the commission shall, within 30 days after the effective date of this section, specifically identify the areas along State Highway 1 for which the scenic view easements provided for in paragraph (7) of subdivision (c) will be required. In identifying the areas for which easements for the restoration and preservation of public scenic views will be required, the executive director shall take into account the effect of tree removal so as to avoid causing erosion problems. It is the intent of the Legislature that only those areas be identified where scenic views to or along the coast are unique or particularly beautiful or spectacular and which thereby take on public importance. The restoration and preservation of the scenic view areas specified pursuant to this subdivision shall be at public expense.

(e) Within 30 days after the effective date of this section, the executive director of the commission shall specify design criteria for the height, site, and bulk of any development visible from the scenic view areas provided for in subdivision (d). ~~Such~~ *This* criteria shall be enforced by the County of Sonoma if the deeds and other necessary documents specified in subdivision (c) have

been conveyed to the State Coastal Conservancy. ~~Such~~ *This* criteria shall be reasonable so as to enable affected property owners to build single-family residences of substantially similar overall size to those ~~which~~ *that* property owners who are not affected by these criteria may build or have already built under the Sea Ranch Association's building design criteria. The purpose of ~~such~~ *the* criteria is to ensure that development will not substantially detract from the specified scenic view areas.

(f) On and after the date on which the deeds and other necessary documents deposited in escrow pursuant to subdivision (c) have been conveyed to the State Coastal Conservancy, no additional public access requirements shall be imposed at the Sea Ranch pursuant to this division by any regional commission, the commission, any other state agency, or any local government. The Legislature hereby finds and declares that the provision of the access facilities specified in this subdivision shall be deemed adequate to meet the requirements of this division.

(g) The realignment of internal roads within the Sea Ranch shall not be required by any state or local agency acting pursuant to ~~the provisions of~~ this division~~; provided, however, that~~. *However,* appropriate easements may be required by the County of Sonoma to provide for the expansion of State Highway 1 for the development of turnout and left-turn lanes and for the location of a bicycle path, when the funds are made available for ~~such~~ *those* purposes. The Legislature finds and declares that ~~the provisions of~~ this subdivision ~~are~~ *is* adequate to meet the requirements of this division to ensure that new development at the Sea Ranch will not overburden the capacity of State Highway 1 to the detriment of recreational users.

(h) No coastal development permit shall be required pursuant to this division for the development of supplemental water supply facilities determined by the State Water Resources Control Board to be necessary to meet the needs of legally permitted development within the Sea Ranch. The commission, through its executive director, shall participate in the proceedings before the State Water Resources Control Board relating to ~~such~~ *these* facilities and may recommend terms and conditions that the commission deems necessary to protect against adverse impacts on coastal zone resources. The State Water Resources Control Board shall condition any permit or other authorization for the

development of ~~such~~ *these* facilities so as to carry out the commission's recommendation, unless the State Water Resources Control Board determines that ~~any such~~ *the* recommended terms or conditions are unreasonable. This subdivision shall become operative if the deeds and other necessary documents specified in subdivision (c) have been conveyed to the State Coastal Conservancy.

(i) Within 90 days after the effective date of this section, the commission, through its executive director, shall specify criteria for septic tank construction, operation, and monitoring within the Sea Ranch to ensure protection of coastal zone resources consistent with the policies of this division. The North Coast Regional Water Quality Control Board shall review ~~such~~ *the* criteria and adopt it, unless it finds ~~such~~ *the* criteria or a portion thereof is unreasonable. The regional board shall be responsible for the enforcement of ~~any such~~ *the* adopted criteria if the deeds and other necessary documents specified in subdivision (c) have been conveyed to the State Coastal Conservancy.

(j) Within 60 days after the date on which the deeds and other necessary documents deposited in escrow pursuant to subdivision (c) have been conveyed to the State Coastal Conservancy, the commission shall refund every Sea ~~Ranch"environmental~~ *Ranch "environmental* deposit" together with any interest earned on ~~such~~ *the* deposit to the person, or his or her designee, who paid ~~such~~ *the* deposit.

(k) Notwithstanding any other provision of law, on and after the date on which the deeds and other necessary documents deposited in escrow pursuant to subdivision (c) have been conveyed to the State Coastal Conservancy, a coastal development permit shall not be required pursuant to this division for the construction of any single-family residence dwelling on any vacant, legal lot existing at the Sea Ranch on the effective date of this section. With respect to any other development for which a coastal development permit is required within legally existing lots at the Sea Ranch, no conditions may be imposed pursuant to this division that impose additional public access requirements or that relate to supplemental water supply facilities, septic tank systems, or internal road realignment.

(*l*) Notwithstanding any other provision of law, if on July 1, 1981, deeds and other necessary documents that are legally sufficient to convey the easements specified in subdivision (c) have not been deposited in an escrow account, the provisions of this section shall no longer be operative and shall have no force or effect and thereafter all the provisions of this division in effect prior to enactment of this section shall again be applicable to any development within the Sea Ranch.

(m) The Legislature hereby finds and declares that the provisions for the settlement of this dispute, especially with respect to public access, as set forth in this section provide an alternative to and are equivalent to the provisions set forth in Section 30610.3. The Legislature further finds that the provisions of this section are not in lieu of the permit and planning requirements of this division but rather provide for an alternative mechanism to Section 30610.3 for the resolution of outstanding issues at the Sea Ranch.

SEC. 594. Section 30716 of the Public Resources Code is amended to read:

30716. (a) A certified port master plan may be amended by the port governing body, but ~~no such~~ *an* amendment shall *not* take effect until it has been certified by the commission. Any proposed amendment shall be submitted to, and processed by, the commission in the same manner as provided for submission and certification of a port master plan.

(b) The commission shall, by regulation, establish a procedure whereby proposed amendments to a certified port master plan may be reviewed and designated by the executive director of the commission as being minor in nature and need not comply with Section 30714. ~~Such~~ *These* amendments shall take effect on the 10th working day after the executive director designates ~~such~~ *the* amendments as minor.

(c) (1) The executive director may determine that a proposed certified port master plan amendment is de minimis if the executive director determines that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 (commencing with Section 30200), and meets the following criteria:

(A) The port governing body, at least 21 days prior to the date of submitting the proposed amendment to the executive director, has provided public notice, and provided a copy to the commission, which specifies the dates and places where comments will be accepted on the proposed amendment, contains a brief description of the proposed amendment, and states the address where copies of the proposed amendment are available for public review, by one of the following procedures:

(i) Publication, not fewer times than required by Section 6061 of the Government Code, in a newspaper of general circulation in the area affected by the proposed amendment. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(ii) Posting of the notice by the port governing body both onsite and offsite in the area affected by the proposed amendment.

(iii) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

(B) The proposed amendment does not propose any change in land use or water uses or any change in the allowable use of property.

(2) At the time that the port governing body submits the proposed amendment to the executive director, the port governing body shall also submit to the executive director any public comments that were received during the comment period provided pursuant to subparagraph (A) of paragraph (1).

(3) (A) The executive director shall make a determination as to whether the proposed amendment is de minimis within 10 working days from the date of submittal by the local government. If the proposed amendment is determined to be de minimis, the proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the commission, in accordance with Section 11125 of the Government Code, and any public comments forwarded by the port governing body shall be made available to the members of the commission.

(B) If three members of the commission object to the executive director’s determination that the proposed amendment is de minimis, the proposed amendment shall be set for public hearing in accordance with the procedures specified in

subdivision (b), or as specified in subdivision (c) if applicable, as determined by the executive director, or, at the request of the port governing body, returned to the local government. If set for public hearing under subdivision (b), the time requirements set by this section and Section 30714 shall commence from the date on which the objection to the de minimis designation was made.

(C) If three ~~of~~ *or* more members of the commission do not object to the de minimis determination, the de minimis amendment shall become a part of the certified port master plan 10 days from the date of the commission meeting.

(4) The commission may, after a noticed public hearing, adopt guidelines to implement this subdivision, which shall be exempt from review by the Office of Administrative Law and from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission shall file any guidelines adopted pursuant to this paragraph with the Office of Administrative Law.

SEC. 595. Section 31163 of the Public Resources Code is amended to read:

31163. (a) The conservancy shall cooperate with cities, counties, and districts, the bay commission, other regional governmental bodies, nonprofit land trusts, nonprofit landowner organizations, and other interested parties in identifying and adopting long-term resource and outdoor recreational goals for the San Francisco Bay ~~Area~~ *area*, which shall guide the ongoing activities of the San Francisco Bay Area Conservancy Program. The conservancy shall utilize the list of priority areas and concerns established by the bay commission pursuant to subdivision (b) of Section 31056 as guidance in the selection of those San Francisco area projects that are within the jurisdiction of the bay commission. However, the guidance provided by the bay commission is advisory and the conservancy shall have the responsibility for making program decisions. Any acquisition of real property using funds authorized pursuant to this chapter shall be from willing sellers if the land is actively farmed or ranched. Any acquisition of real property by the conservancy pursuant to this chapter shall be from willing sellers.

(b) The conservancy shall participate in and support interagency actions and public/private partnerships in the San Francisco Bay ~~Area~~ *area* for the purpose of implementing

subdivision (a), and providing for broad-based local involvement in, and support for, the San Francisco Bay Area Conservancy Program.

(c) The conservancy shall utilize the criteria specified in this subdivision to develop project priorities for the San Francisco Bay Area Conservancy Program that provide for development and acquisition projects, urban and rural projects, and open space and outdoor recreational projects. The conservancy shall give priority to projects that, to the greatest extent, meet the following criteria:

(1) Are supported by adopted local or regional plans.

(2) Are multijurisdictional or serve a regional constituency.

(3) Can be implemented in a timely way.

(4) Provide opportunities for benefits that could be lost if the project is not quickly implemented.

(5) Include matching funds from other sources of funding or assistance.

(d) (1) The conservancy shall be the lead agency in the funding and development of projects implementing the San Francisco Bay Area Water Trail Plan prepared pursuant to Section 66694 of the Government Code.

(2) During the period when the plan is being prepared and after the completion of the plan, the conservancy may undertake projects and award grants that are generally consistent with and advance the preparation of the plan or achieve the implementation of the plan.

(3) To advance the preparation of the plan, the conservancy shall help coordinate a collaborative partnership with the ~~San Francisco Bay Conservation and Development Commission~~ *bay commission*, the Association of Bay Area Governments, and other interested persons, organizations, and agencies, including, but not limited to, interested state, county, and district departments and commissions, parks and park districts, ports, regional governmental bodies, nonprofit groups, user groups, and businesses.

(4) In developing the plan and undertaking projects to implement the plan, areas for which access is to be managed or prohibited shall be determined in consultation with resource protection agencies, the United States Coast Guard, the Water Transit Authority, the State Lands Commission, local law

enforcement agencies, and through the environmental review process required by the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(5) Upon the completion of the plan, the conservancy shall consider the plan's adoption and inclusion of the appropriate elements of the plan in the conservancy's strategic plan.

(6) The conservancy shall not award a grant or undertake a project for the San Francisco Bay Area Water Trail that would have a significant adverse impact on a sensitive wildlife area or is in conflict with the goals of subdivision (a) of Section 31162.

SEC. 596. Section 31258 of the Public Resources Code is amended to read:

31258. (a) Following *the* completion of a coastal resource enhancement plan, the conservancy shall forward the plan to the commission for determination of conformity of the plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit the findings on the plan to the conservancy. If no comments are received within the period, the restoration plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

(b) *(1)* Following the certification of a local coastal program, the city ~~or~~, county, or city and county with jurisdiction over the certified area, rather than the commission, shall review the coastal resource enhancement plan ~~where~~ *if all of the following circumstances apply*: ~~(1) the~~

(A) The proposed enhancement plan will be implemented entirely within one local public agency's jurisdiction~~; (2) the~~.

(B) The area proposed for enhancement is identified pursuant to ~~the provisions of~~ Section 31251~~; and (3) implementation~~.

(C) Implementation of the enhancement plan does not require an amendment to the certified local coastal program. ~~The~~

(2) The local public agency shall review the enhancement plan to determine consistency with the certified local coastal program within 60 days after transmittal of the plan from the conservancy and shall transmit its findings to the conservancy immediately upon completion of plan review. If no comments are received at the end of the 60-day period, the plan shall be deemed to be in accord with the provisions of the certified local coastal program.

~~Where~~

(c) If the enhancement plan will be implemented in whole or in part in an area in which the commission retains coastal development permit jurisdiction pursuant to subdivision (b) of Section 30519, ~~or in an area~~ in which two or more local governments have jurisdiction, or where a local coastal program amendment is required to implement the plan, the commission shall be responsible for enhancement plan review and shall conduct the review in the following manner. The commission shall review the enhancement plan for consistency with the policies and objectives of Division 20 *(commencing with Section 30000),* as provided in subdivision (a), for the area subject to retained coastal development permit jurisdiction pursuant to subdivision (b) of Section ~~30159~~ *30519* and where a local coastal program amendment is required, and shall review the plan for consistency with certified local coastal programs for areas under local government coastal development permit jurisdiction.

SEC. 597. Section 32103 of the Public Resources Code is amended to read:

32103. Except as otherwise expressly provided by the authority, every issue of its bonds shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, including the proceeds of additional bonds, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with holders of particular bonds pledging any particular revenues. Notwithstanding that the bonds may be payable from a special fund, they shall be ~~and~~ deemed to be negotiable instruments for all purposes, subject only to the bond registration provisions.

SEC. 598. Section 33201 of the Public Resources Code is amended to read:

33201. (a) The State Coastal Conservancy, pursuant to Division 21 (commencing with Section 31000), has the prime responsibility for carrying out projects identified in certified local coastal programs for jurisdictions within the coastal zone portion of the zone, and the Santa Monica Mountains Conservancy has the prime responsibility pursuant to this division to undertake projects within the coastal zone portion of the zone that

implement the park, recreation, conservation, and open-space provisions of the plan.

(b) This section does not affect any project undertaken by the Santa Monica Mountains ~~Convervancy~~ *Conservancy* or the State Coastal Conservancy prior to January 1, 1983, nor shall this section be construed to affect the existing review and approval powers of the California Coastal Commission.

(c) The State Coastal Conservancy does not have jurisdiction in the zone outside the coastal zone portion of the zone.

SEC. 599. Section 33207.5 of the Public Resources Code is amended to read:

33207.5. (a) The executive director, on behalf of the conservancy, shall, contemporaneously with the Los Angeles Unified School District completing all procedures and transfers in accordance with subdivisions (b) and (c), waive and release all the conservancy's right, title, or interest to purchase Los Angeles Unified School District property pursuant to subdivision (b) of Section 33207, and pursuant to any other statutory authority, wherever granted, to those school sites commonly referred to as the Beverly Glen Midsite School site, the property commonly referred to as the four recorded lots of the Old Ranch Road School site, the property commonly referred to as the South of Lanai Road School site, and any other school district properties located within the zone, except that the conservancy shall retain all rights to purchase the acreage parcel of the Old Ranch Road School site as set forth in this section.

(b) The exemption in subdivision (a) shall become operative if the Board of Education of the Los Angeles Unified School District ~~(hereafter~~, referred to *in this section* as the Board of ~~Education)~~ *Education*, within two days of the effective date of this section, votes to offer to the conservancy, and within five days of the effective date of this section records in the office of the Los Angeles County Recorder, an irrevocable offer to sell to the conservancy, at the original purchase price, the Temescal Junior High School site; and records in the office of the Los Angeles County Recorder an offer of a right to purchase to the conservancy upon terms and procedures in accordance with subdivision (d), a portion of the Old Ranch Road site described as follows:

All that portion of blocks 39 and 43 lying within the Santa Monica Land and Water Company Tract M.R. 78-44/49 owned by the Los Angeles Unified School District, together with appurtenant access easements along Old Ranch Road.

(c) The exemption in subdivision (a) shall only become operative if the Board of Education, within two days of the effective date of this section, approves a resolution of intention to sell the Old Ranch Road site described in subdivision (b). The resolution to sell shall direct publication of notice of the Board of Education's intention to sell in a newspaper of general circulation published within the Los Angeles Unified School District within 10 days of ~~such~~ *the* resolution and shall cause the notice to be published on at least three occasions within a period of time of not less than 15 days. The notice shall fix a date for the opening of bids not less than 21 days after the last publication. The bids shall be opened in public in the offices of the real estate branch in accordance with the Los Angeles Unified School District's procedure. The executive director of the conservancy shall be advised of the bid opening and location not less than seven days prior thereto. The resolution to sell and notice shall state a minimum bid price of one million four hundred thousand dollars ($1,400,000) cash sale, and close of escrow to occur within 45 days of acceptance of the highest responsible bid by the Board of Education. All bids shall be in writing and accompanied by a deposit of not less than fifty thousand dollars ($50,000) in cash or cashier's check.

(d) *(1)* Prior to accepting any responsible bid received pursuant to subdivision (c), the Board of Education or its designee~~,~~ shall call for oral bids. If, upon the call for oral bidding, any person offers to purchase the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written or previous oral proposal ~~which~~ *that* is made by a responsible person, that higher bid shall be designated as the highest responsible bid~~,~~ ~~provided that~~ *if* the oral bid is reduced to writing and signed by the offeror and accompanied by a cashier's check or by cash in an amount not less than fifty thousand dollars ($50,000).

(2) After determining the highest responsible bidder, the Board of Education shall offer the Old Ranch Road School site described in subdivision (b) to the conservancy at the price

indicated in the highest responsible bid as determined in ~~subdivisions~~ *subdivision* (c) and ~~(d)~~ *this subdivision*, but at a price not less than one million four hundred thousand dollars ($1,400,000). The offer shall be in writing and shall remain open for a period of 10 days from the date that the written offer is received by the conservancy. The executive director of the conservancy shall have the right, against all others, to gain the right to purchase ~~such~~ *the* property at any time within the 10-day period at the price of the highest responsible bid by communicating to the Board of Education in writing.

(3) In the event the executive director of the conservancy exercises the right to purchase pursuant to this section, the State of California, Santa Monica Mountains Conservancy, shall receive a conveyance of the property from the Board of Education by quit claim deed if the State of California pays the Board of Education by warrant or by cashier's check, the amount of ~~such~~ *the* highest bid at any time within a six-month period commencing with the date of the receipt by the executive director of the conservancy of the Board of Education's offer, as ~~above~~ described *in this subdivision*.

(4) If the executive director of the conservancy does not, within the 10-day period described in this subdivision, indicate his *or her* intention to exercise the right to purchase the property, the Board of Education may convey the property to the highest responsible bidder. In the event the highest responsible bidder fails to complete the purchase, the Board of Education shall offer the property to the executive director of the conservancy in accordance with the procedure set forth ~~herein~~ *in this subdivision* for each successive responsible bid, but in no case shall the price to the conservancy be less than one million four hundred thousand dollars ($1,400,000).

(5) Should the executive director of the conservancy indicate an intention to exercise the right to purchase within the 10-day period, but fail to pay the Board of Education the purchase price by warrant of the State of California or cashier's check within the six-month period, or the executive director of the conservancy fails to exercise the right to purchase within the 10-day period and the property is purchased by the highest responsible bidder, the executive director of the conservancy shall execute a waiver

and release in accordance with subdivision (a) for the Old Ranch Road site as described in subdivision (b).

(e) *(1)* In the event the conservancy does not acquire the portion of the Old Ranch Road site described in subdivision (b) pursuant to the procedure set forth in this section, and the conservancy has released and waived its rights pursuant to subdivision (a), the Board of Education may offer the Old Ranch Road site for purchase to the highest responsible bidder on the same terms as determined pursuant to this section, or should ~~such~~ *the* responsible bidder no longer wish to purchase the property, the Board of Education may offer the property for sale pursuant to the provisions of the Education Code governing the sale of surplus district property.

(2) Notwithstanding any other provision of law, the Board of Education may adopt or approve any and all acts required by it to carry out ~~the provisions of~~ this section and may sell to the conservancy the real property described as the Temescal Junior High School site at its original purchase price in accordance with the procedures specified in this section by an affirmative vote of five members of the Board of Education. Further, notwithstanding the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government ~~Code~~ *Code)*, and any other provision of law, the executive director of the conservancy may take ~~such~~ *any* actions ~~as~~ *that are* necessary to carry out ~~the provisions of~~ this division.

SEC. 600. Section 42463 of the Public Resources Code is amended to read:

42463. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Account" means the Electronic Waste Recovery and Recycling Account created in the Integrated Waste Management Fund under Section 42476.

(b) "Authorized collector" means any of the following:

(1) A city, county, or district that collects covered electronic devices.

(2) A person or entity that is required or authorized by a city, county, or district to collect covered electronic devices pursuant

to the terms of a contract, license, permit, or other written authorization.

(3) A nonprofit organization that collects or accepts covered electronic devices.

(4) A manufacturer or agent of the manufacturer that collects, consolidates, and transports covered electronic devices for recycling from consumers, businesses, institutions, and other generators.

(5) An entity that collects, handles, consolidates, and transports covered electronic devices and has filed applicable notifications with the department pursuant to Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations.

(c) "Board" means the California Integrated Waste Management Board.

(d) "Consumer" means a person who purchases a new or refurbished covered electronic device in a transaction that is a retail sale or in a transaction to which a use tax applies pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(e) "Department" means the Department of Toxic Substances Control.

(f) (1) Except as provided in paragraph (2), "covered electronic device" means a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by the department pursuant to subdivision (b) of Section 25214.10.1 of the Health and Safety Code.

(2) "Covered electronic device" does not include any of the following:

(A) A video display device that is a part of a motor vehicle, as defined in Section 415 of the Vehicle Code, or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(B) A video display device that is contained within, or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment.

(C) A video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer,

microwave oven, conventional oven or range, dishwasher, room air-conditioner, dehumidifier, or air purifier.

(D) An electronic device, on and after the date that it ceases to be a covered electronic device under subdivision (e) of Section 25214.10.1 of the Health and Safety Code.

(g) "Covered electronic waste" or "covered e-waste" means a covered electronic device that is discarded.

(h) "Covered electronic waste recycling fee" or "covered e-waste recycling fee" means the fee imposed pursuant to Article 3 (commencing with Section 42464).

(i) "Covered electronic waste recycler" or "covered e-waste recycler" means any of the following:

(1) A person who engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling.

(2) A person who changes the physical or chemical composition of a covered electronic device, in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user.

(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

(j) "Discarded" has the same meaning as defined in subdivision (b) of Section 25124 of the Health and Safety Code.

(k) "Electronic waste recovery payment" means an amount established and paid by the board pursuant to Section 42477.

(*l*) "Electronic waste recycling payment" means an amount established and paid by the board pursuant to Section 42478.

(m) "Hazardous material" has the same meaning as defined in Section 25501 of the Health and Safety Code.

(n) "Manufacturer" means ~~any~~ *either* of the following:

(1) A person who manufactures a covered electronic device sold in this state.

(2) A person who sells a covered electronic device in this state under that person's brand name.

(o) "Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. Notwithstanding Section 40170, "person" also includes a city, county, city and county, district, commission, the state or a department, agency, or political subdivision thereof, an interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(p) "Recycling" has the same meaning as defined in subdivision (a) of Section 25121.1 of the Health and Safety Code.

(q) "Refurbished," when used to describe a covered electronic device, means a device that the manufacturer has tested and returned to a condition that meets factory specifications for the device, has repackaged, and has labeled as refurbished.

(r) "Retailer" means a person who makes a retail sale of a new or refurbished covered electronic device. "Retailer" includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet, or any other similar electronic means.

(s) (1) "Retail sale" has the same meaning as defined under Section 6007 of the Revenue and Taxation Code.

(2) "Retail sale" does not include the sale of a covered electronic device that is temporarily stored or used in California for the sole purpose of preparing the covered electronic device for use thereafter solely outside the state, and that is subsequently transported outside the state and thereafter used solely outside the state.

(t) "Vendor" means a person that makes a sale of a covered electronic device for the purpose of resale to a retailer who is the lessor of the covered electronic device to a consumer under a lease that is a continuing sale and purchase pursuant to Part 1~~(commencing~~ *1 (commencing* with Section 6001) of Division 2 of the Revenue and Taxation Code.

(u) "Video display device" means an electronic device with an output surface that displays, or is capable of displaying, moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display, in that it cannot be easily removed from the display by the consumer, that produces the moving image on the screen. A video display device may use, but is not limited to, a cathode ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, or other image projection technology.

SEC. 601. Section 42888 of the Public Resources Code is amended to read:

42888. (a) Except as agreed to by the board, no refund shall be approved by the board after three years from the date the payment was due for which the overpayment was made, or with respect to deficiency or jeopardy determinations, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given by the board.

~~(2)~~

(b) A refund may be approved by the board for any period agreed to by the board for good cause if a claim ~~therefor~~ *for the referral* is filed with the board before the expiration of the period agreed upon.

SEC. 602. Section 42891 of the Public Resources Code is amended to read:

42891. ~~(a)~~ The Department of General Services shall revise its procedures and procurement specifications for state purchases of products ~~which~~ *that* are made of, or contain components ~~which~~ *that* can be derived from the recycling of, used tires, including, but not limited to, rubber, oil, natural gas, carbon black, asphalt rubber, floor tiles, carpet underlays, mats, drainage pipes, garbage cans, retreaded tires, and water hoses. For those purchases, the department shall give preference, wherever feasible, to the suppliers of recycled tire products. This

preference shall be 5 percent of the lowest bid or price quoted by suppliers offering similar products made from nonrecycled components.

SEC. 603. Section 43500 of the Public Resources Code is amended to read:

43500. ~~(a)~~ The Legislature hereby finds and declares that the long-term protection of air, water, and land from pollution due to the disposal of solid waste is best achieved by requiring financial assurances of the closure and postclosure maintenance of solid waste landfills.

SEC. 604. Section 44820 of the Public Resources Code is amended to read:

44820. *(a)* Except as provided in subdivision (c), the board shall adopt, by regulation, a permitting, inspection, and enforcement program for the disposal of asbestos containing waste, as specified in Section 25143.7 of the Health and Safety Code, at any solid waste facility or disposal site subject to regulation pursuant to this part. The program may include, but is not limited to, standards and certification requirements for local enforcement agencies, pursuant to which the board may delegate authority for the regulation of asbestos containing waste to local enforcement agencies.

(b) On or before March 1, 1995, or the earliest feasible date thereafter, the board and the Department of Toxic Substances Control shall enter into a memorandum of understanding that defines the enforcement responsibilities of each agency for the disposal of asbestos containing waste at any solid waste disposal facility or disposal site subject to regulation pursuant to this part. The memorandum of understanding shall be periodically updated to be consistent with each agency's responsibilities pursuant to this section and Chapter 6.5 (commencing with Section 25100) of Division 30 of the Health and Safety Code.

(c) Until the board has adopted regulations pursuant to subdivision (a), the Department of Toxic Substances Control shall regulate asbestos containing waste at a solid waste facility or disposal site.

(d) Any regulations adopted pursuant to this section shall be deemed emergency regulations and shall be adopted in accordance with the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the

Government Code.) The adoption of these regulations shall be deemed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

SEC. 605. Section 49161 of the Public Resources Code is amended to read:

49161. The resolution shall state all of the following:

(a) The general objectives and purposes for which it is proposed to incur an indebtedness.

(b) A general description of all property to be acquired or damaged and work to be executed through the expenditure of the funds secured by the issuance and sale of the bonds.

(c) An estimate of the cost of the proposed work.

(d) The amount of the bonds proposed to be issued.

(e) The number of years beyond which the ~~all of the~~ bonds are to run.

(f) The rate of interest or a maximum rate of interest to be paid.

(g) The date of the election.

(h) The election precincts, polling places, and election officers.

SEC. 606. Section 71081 of the Public Resources Code is amended to read:

71081. (a) Beginning on July 1, 2004, to the extent that funds are appropriated by the Legislature for this purpose, the office, on behalf of the office of the secretary, shall develop and maintain a system of environmental indicators. The office shall develop and maintain the system to meet all of the following objectives for using environmental indicators:

(1) Provide policymakers and the public with an improved understanding of the condition of the state's environment and the effects of the release of contaminants on public health and the environment.

(2) Provide policymakers and the public with information to evaluate the effectiveness of the agency's programs in improving environmental quality and protecting public health throughout the state, including environmental quality and public health in low-income communities and communities of color.

(3) Assist in the development and modification of agency programs, plans, and policies as environmental conditions change over time.

(4) Assist the agency in making budget decisions that address the most significant environmental concerns.

(b) The following definitions apply to this section:

(1) "Agency" means the California Environmental Protection Agency.

(2) "Environmental indicator" means an objective and scientifically based measure that represents information on environmental conditions, releases of contaminants into the environment, or the effects of those releases.

(3) "Office" means the Office of Environmental Health Hazard Assessment.

(4) "Secretary" means the Secretary for Environmental Protection.

(c) The secretary shall submit a report on the environmental indicators developed pursuant to this chapter to the Governor and the Legislature on or before January 1, 2006, and by January 1 every two years thereafter. The report shall include a discussion as to the manner in which the environmental indicators are being used by the agency to meet the objectives set forth in subdivision (a). The office shall make the report available to the public on its *Internet* Web site. The office shall include on its *Internet* Web site any additional relevant information in support of those environmental indicators and shall update that information posted on the *Internet* Web site as new information becomes available.

(d) The office shall be the lead agency for developing new environmental indicators, for modifying, deleting, and updating existing environmental indicators, and for developing and maintaining an environmental indicator database. The office shall lead an intra-agency workgroup, consisting of representatives from each of the boards, departments, and offices within the agency. The office shall consult with the intra-agency workgroup in developing and maintaining the environmental indicators, program planning, policy formulation, and other decisionmaking processes, and in drafting the report required under subdivision (c).

(e) In developing and maintaining the environmental indicators, the office shall consult with the Resources Agency, the State Department of Health Services, and other state agencies as appropriate.

(f) The office may utilize information for indicators that is not collected by other boards and departments within the agency and may identify and establish new indicators.

~~(h)~~

(g) In implementing this section, the office may hold public meetings to receive comments from a broad range of stakeholders, including, but not limited to, local government, the regulated community, nongovernmental organizations, and other groups with an interest in environmental issues.

~~(i)~~

(h) The office shall consult with the scientific review panel established pursuant to Section 50.8 of the Labor Code for the purpose of establishing, updating, and evaluating environmental indicators.

~~(j)~~

(i) The secretary shall periodically assess the ability of the environmental indicators system to meet each of the objectives cited in subdivision (a) and the ability of the system to support the development and implementation of the agencywide environmental justice strategy pursuant to Section 71113.

SEC. 607. Section 95.2 of the Revenue and Taxation Code is amended to read:

95.2. (a) (1) Notwithstanding any other provision of law, for the 1990–91 fiscal year, for the purposes of the computations required by Section 96.1 or its predecessor section, the amount of property tax presumed to have been received by the county in the prior year shall be increased by the amount of 1989–90 property tax administrative costs proportionately attributable to incorporated cities as determined pursuant to paragraph (2).

(2) The auditor shall determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to incorporated cities by adding the 1989–90 fiscal year property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by all incorporated cities divided by the total property tax revenue for all local jurisdictions in the county for that fiscal year.

(3) The county shall use the additional revenue received pursuant to this subdivision only to fund the actual costs of assessing, collecting, and allocating property taxes. At least once each fiscal year, the county auditor shall report the amount of these actual costs and allowable overhead costs to the legislative body and any other jurisdiction or person that ~~request~~ *requests* the information. To the extent that actual costs for assessing, collecting, and allocating property taxes plus allowable overhead costs are less than the amount determined pursuant to paragraph (2), the county auditor shall apportion the difference to each incorporated city as otherwise required by this section.

(4) The county may retain up to one-half of any increased property tax allocation to which a jurisdiction may be otherwise entitled, until the county receives its additional revenues pursuant to this subdivision.

(5) It is the intent of the Legislature in enacting this subdivision to recognize that since the ~~adoption~~ *approval* of Article XIII A of the California Constitution by the voters, county governments have borne an unfair and disproportionate part of the financial burden of assessing, collecting, and allocating property tax revenues for cities. It is further the intent of the Legislature that the adjustments provided for by this subdivision shall constitute charges by a county for the assessment, collection, and allocation of property taxes and shall not exceed the actual costs reasonably borne by a county for those activities.

(b) If so directed by the board of supervisors, the auditor shall determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to local jurisdictions other than the county or city and county, and cities, by adding the property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by jurisdictions other than the county, city and county, and cities, divided by the total property tax received by all local jurisdictions in the county for that fiscal year. Notwithstanding any other provision of law, this amount may be calculated for each fiscal year commencing with the 1989–90 fiscal year, and the auditor shall, commencing in *the 1990–91* fiscal year ~~1990–91~~, if so directed by the board of

supervisors, submit an invoice to these jurisdictions for services rendered in the prior fiscal year.

(c) Notwithstanding subdivision (b), no invoice as described in that subdivision shall be submitted to any school district, community college district, or county office of education, nor shall any of those entities be required to pay any invoice, for property tax administrative costs for services rendered in the 1990–91 fiscal year, or in any subsequent fiscal year. This subdivision shall not be construed to prevent the auditor of any county from collecting from school districts, community college districts, and county offices of education, in accordance with subdivision (b), property tax administrative costs for services rendered to those entities in the 1989–90 fiscal year.

SEC. 608. Section 531.7 of the Revenue and Taxation Code is amended to read:

531.7. If property has not been legally assessable on the local secured roll for any year because the property has been tax deeded to a taxing agency other than the state, the property shall be deemed to have escaped assessment for that year and shall be subject to ~~the provisions of~~ this article if *any of the following circumstances apply*:

(a) The property has not been declared tax defaulted for delinquent taxes~~, and~~,.

(b) The property has been redeemed from the tax sale and ~~deed~~ *deeded* to the taxing agency~~, or~~.

(c) The tax deed to the taxing agency has been held to be invalid and has been canceled; provided, however, that the statute of limitations provided for in Section 532 shall not apply.

SEC. 609. Section 862 of the Revenue and Taxation Code is amended to read:

862. When an assessee, after a request by the board, fails to file a property statement by the date specified in Section 830 or files with the board a property statement or report on a form prescribed by the board with respect to state-assessed property and the statement fails to report any taxable tangible property information accurately, regardless of whether or not this information is available to the assessee, to the extent that these failures cause the board not to assess the property or to assess it at a lower valuation than it would have if the property information *had* been reported accurately, the property shall be

assessed in accordance with Section 864, and a penalty of 10 percent shall be added to the additional assessment. If the failure to report or the failure to report accurately is willful or fraudulent, a penalty of 25 percent shall be added to the additional assessment. If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided~~,~~ *that* the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

SEC. 610. Section 2188.5 of the Revenue and Taxation Code is amended to read:

2188.5. (a) *(1)* Subject to the limitations set forth in subdivision (b), whenever real property has been divided into planned developments as defined in ~~Sections~~ *Section* 11003 ~~and 11003.1~~ of the Business and Professions Code, the interests therein shall be presumed to be the value of each separately owned lot, parcel, or area, and the assessment shall reflect this value, which includes all of the following:

~~(1)~~

(A) The assessment attributable to the value of the separately owned lot, parcel, or area and the improvements thereon.

~~(2)~~

(B) The assessment attributable to the share in the common area reserved as an appurtenance of the separately owned lot, parcel, or area.

~~(3)~~

(C) The new base year value of the common area resulting from any change in ownership pursuant to Chapter 2 (commencing with Section 60) or new construction pursuant to Chapter 3 (commencing with Section 70) attributable to the share in the common area reserved as an appurtenance of the separately owned lot, parcel, or area.

(2) For the purposes of this section, “common area” shall mean the land and improvements within a lot, parcel, or area, the beneficial use and enjoyment of which is reserved in whole or in part as an appurtenance to the separately owned lots, parcels, or

areas, whether this common area is held in common or through ownership of shares of stock or membership in an owners' association ~~as defined in Section 11003.1 of the Business and Professions Code~~. The tax on each separately owned lot, parcel, or area shall constitute a lien solely thereon and upon the proportionate interest in the common area appurtenant thereto.

(b) Assessment in accordance with ~~the provisions of~~ subdivision (a) shall only be required with respect to those planned developments ~~which~~ *that* satisfy both of the following conditions:

(1) The development is located entirely within a single tax code area.

(2) The entire beneficial ownership of the common area is reserved as an appurtenance to the separately owned lots, parcels, or areas.

(c) The amendment to subdivision (b) made by ~~the act adding this subdivision~~ *Chapter 407 of the Statutes of 1984* shall apply to real property ~~which~~ *that* has been divided into planned developments, as defined in ~~Sections~~ *Section* 11003 ~~and 11003.1~~ of the Business and Professions Code, on and after the effective date of ~~the act adding this subdivision~~ *Chapter 407 of the Statutes of 1984*.

SEC. 611. Section 2700 of the Revenue and Taxation Code is amended to read:

2700. Notwithstanding ~~the provisions of~~ Sections 2605, 2606, 2607, 2617, 2618, 2621, and 2624 ~~of Chapter 1, Part 5, Division 1, of this code~~, if so ordered by a resolution of the board of supervisors of any county, ~~the provisions of~~ this chapter shall be applicable to ~~such~~ *that* county, provided that ~~such~~ *the* resolution ~~must~~ *shall* be adopted prior to the time the county auditor is required to compute and enter on the secured roll the respective amounts due in installments as taxes for the assessment year in which ~~such~~ *the* resolution ~~shall become~~ *becomes* effective. ~~The provisions of this~~ *This* chapter shall apply only to ~~such a~~ *that* county and shall then apply until otherwise ordered by a resolution of the board of supervisors.

SEC. 612. Section 4676 of the Revenue and Taxation Code is amended to read:

4676. *(a)* When excess proceeds from the sale of tax-defaulted property exceeds one hundred fifty dollars ($150),

the county shall provide notice of the right to claim the excess proceeds, as provided ~~herein~~ *in this section*.

~~(a)~~

(b) No later than 90 days after the sale of the property, the county shall mail written notice of the right to claim excess proceeds to the last known mailing address of parties of interest, as defined in Section 4675. The county shall make a reasonable effort to obtain the name and last known mailing address ~~or~~ *of* parties of interest.

~~(b)~~

(c) If the last known address of a party of interest cannot be obtained, the county shall publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county. The notice shall be published once a week for three successive weeks and shall commence no later than 90 days after the sale of ~~such~~ *the* property.

(d) The cost of obtaining the name and last known mailing address of parties of interest and of mailing or publishing the notices required ~~herein~~ *under this section* shall be deducted from the excess proceeds and shall be distributed to the county general fund.

SEC. 613. Section 4703.3 of the Revenue and Taxation Code is amended to read:

4703.3. Notwithstanding any other provision of law, general, special, or local, if Orange County sells or assigns obligations arising out of delinquent assessments or taxes on the secured roll to a joint powers agency pursuant to Section 26220.5 of the Government ~~ode~~ *Code*, the Orange County Board of Supervisors may elect to transfer its tax losses reserve fund to the joint powers agency. The tax losses reserve fund shall be maintained by the joint powers agency according to Section 4703 or 4703.2, whichever is applicable, except that the tax losses reserve fund may both be used to cover losses that may occur in the amount of tax liens as a result of special sales of tax-defaulted property and, subject to agreements with bondholders, be pledged as a reserve for bonds issued by the joint powers agency to purchase the obligations arising out of delinquent assessments or taxes on the secured roll.

SEC. 614. Section 6067 of the Revenue and Taxation Code is amended to read:

6067. After compliance with Sections 6066 and 6701 by the applicant, and after ~~the~~ giving the applicant the notice required by Section 6066.5, the board shall grant and issue to each applicant a separate permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

SEC. 615. Section 6201.2 of the Revenue and Taxation Code is amended to read:

6201.2. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 15, 1991, for storage, use, or other consumption in this state at the rate of ½ percent of the sales price of the property.

(b) All revenues ~~receive~~ *received* pursuant to this section shall be deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.

(c) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6051.2 and deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 616. Section 6376.1 of the Revenue and Taxation Code is amended to read:

6376.1. (a) On and after July 15, 1991, there ~~are~~ *is* exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ¼ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(b) From July 15, 1991, to the date on which the taxes imposed by Sections 6051.2 and 6201.2 cease to be operative pursuant to subdivision (b) of Section 6051.2 or subdivision (b) of Section 6201.2, there ~~are~~ *is* exempted from the taxes imposed

by this part an amount equal to an amount that is attributable to a one-half of 1 percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(c) From July 15, 1991, to the date the taxes imposed by Sections 6051.5 and 6201.5 cease to be operative, there ~~are~~ *is* exempted from the taxes imposed by this part an amount equal to

an amount that is attributable to a ½ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(d) On and after July 15, 1991, there ~~are~~ *is* exempted from the taxes imposed by this part an amount equal to the tax imposed by this part on July 14, 1991, with respect to the sale or purchase of

any tangible personal property that was exempt prior to the enactment of the act adding this section, with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not *to* be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

SEC. 617. Section 6902.3 of the Revenue and Taxation Code is amended to read:

6902.3. Notwithstanding ~~of~~ Section 6902, a refund of an overpayment of any tax, penalty, or interest collected by the board by means of levy, through the use of liens, or by other enforcement procedures, shall be approved if a claim for refund is filed within three years of the date of overpayment.

SEC. 618. Section 9270 of the Revenue and Taxation Code is amended to read:

9270. (a) An officer or employee of the board acting in connection with any law administered by the board shall not

knowingly authorize, require, or conduct any investigation of, or surveillance over, ~~and~~ *any* person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) ~~The provisions of this~~ *This* section ~~are~~ *is* not intended to prohibit, restrict, or prevent the exchange of information ~~where~~ *if* the person is being investigated for multiple violations ~~which~~ *that* include use fuel tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

SEC. 619. Section 11317 of the Revenue and Taxation Code is amended to read:

11317. *(a)* An escape assessment shall be entered on the current private railroad car tax record, and if this is not the record for the year in which the property escaped assessment, the entry shall be followed with "escape assessment for year ~~19__~~. *20__*." The property shall be assessed at the same value and taxed at the same rate as it would have been assessed and taxed had it not escaped.

(b) If the assessments are made as a result of an audit ~~which~~ *that* discloses that property assessed to the party audited has been incorrectly assessed for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 11553, the tax refunds, including applicable interest under Section 11555, resulting from the incorrect assessments shall be an offset against proposed tax liabilities, including ~~accummulated~~ *accumulated* penalties and interest, resulting from escaped assessments for any tax year covered by the audit. If the refunds exceed any proposed tax liabilities, including penalties and interest, the excess shall be processed in accordance with Section 11551.

(c) Beginning with the 1981–82 fiscal year, assessments for the current year and escape assessments for prior years shall be entered using a 100-percent assessment ratio and the tax rates for years prior to the 1981–82 fiscal year shall be divided by four.

SEC. 620. Section 11923 of the Revenue and Taxation Code is amended to read:

11923. *(a)* Any tax imposed pursuant to this part shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or ~~adjustment —~~ *adjustment that is any of the following:*

~~(a)~~

(1) Confirmed under the Federal Bankruptcy Act, as amended~~;~~.

~~(b)~~

(2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in ~~subdivision (m) of~~ Section ~~205~~ *101* of Title 11 of the United States Code, as amended~~;~~.

~~(c)~~

(3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in ~~subdivision (3) of~~ Section ~~506~~ *101* of Title 11 of the United States Code, as amended~~; or~~.

~~(d)~~

(4) Whereby a mere change in identity, form, or place of organization is effected.

~~Subdivisions (a) to (d), inclusive, of this section~~

(b) Subdivision (a) shall only apply if the making, delivery, or filing of instruments of transfer or conveyances occurs within five years from the date of ~~such~~ *the* confirmation, approval, or change.

SEC. 621. Section 13153 of the Revenue and Taxation Code is amended to read:

13153. On or before ~~the~~ April ~~1st~~ *1*, the State Compensation Insurance Fund shall pay into the State Treasury to the credit of the Insurance Tax Fund the sum required under ~~the provisions of~~ Section 12203 ~~of this code~~.

SEC. 622. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the

"net tax" ~~(as~~, *as* defined in Section ~~17039)~~ *17039,* an amount determined in accordance with Section 21 of the Internal Revenue Code, except that the amount of the credit shall be a percentage, as provided in subdivision (b) of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

(1) For taxable years beginning before January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
$40,000 or less	63%
Over $40,000 but not over $70,000	53%
Over $70,000 but not over $100,000	42%
Over $100,000	0%

(2) For taxable years beginning on or after January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
$40,000 or less	50%
Over $40,000 but not over $70,000	43%
Over $70,000 but not over $100,000	34%
Over $100,000	0%

(c) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(d) For purposes of this section, "adjusted gross income" means adjusted gross income as computed for purposes of paragraph (2) of subdivision (h) of Section 17024.5.

(e) The credit authorized by this section shall be limited, as follows:

(1) Employment-related expenses, within the meaning of Section 21 of the Internal Revenue Code, shall be limited to expenses for household services and care provided in this state.

(2) Earned income, within the meaning of Section 21(d) of the Internal Revenue Code, shall be limited to earned income subject to tax under this part. For purposes of this paragraph, compensation received by a member of the armed forces for active services as a member of the armed forces, other than pensions or retired pay, shall be considered earned income subject to tax under this part, whether or not the member is domiciled in this state.

(f) For purposes of this section, Section 21(b)(1) of the Internal Revenue Code, relating to a qualifying individual, is modified to additionally provide that a child ~~(as~~, *as* defined in Section 151(c)(3) of the Internal Revenue ~~Code)~~ *Code)*, shall be treated, for purposes of Section 152 of the Internal Revenue Code ~~(as~~, *as* applicable for purposes of this ~~section)~~ *section*, as receiving over one-half of his or her support during the calendar year from the parent having custody for a greater portion of the calendar year, that parent shall be treated as a "custodial ~~parent"~~ ~~(within~~ *parent*," *within* the meaning of Section 152(e) of the Internal Revenue Code, as applicable for purposes of this ~~section)~~ *section*, and the child shall be treated as a qualifying individual under Section 21(b)(1) of the Internal Revenue Code, as applicable for purposes of this section, if both of the following apply:

(1) The child receives over one-half of his or her support during the calendar year from his or her parents who never married each other and who ~~live~~ *lived* apart at all times during the last six months of the calendar year.

(2) The child is in the custody of one or both of his or her parents for more than one-half of the calendar year.

(g) The amendments to this section made by ~~the act adding this subdivision~~ *Section 1.5 of Chapter 824 of the Statutes of 2002* shall apply only to taxable years beginning on or after January 1, 2002.

SEC. 623. Section 19191 of the Revenue and Taxation Code is amended to read:

19191. (a) The Franchise Tax Board may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified member, or qualified beneficiary as defined in Section 19192, that is binding on both the Franchise

Tax Board and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(b) The Franchise Tax Board shall do all of the following:

(1) Provide guidelines and establish procedures for qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to apply for voluntary disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Implement procedures for accepting applications for voluntary disclosure agreements through the National Nexus Program administered by the Multistate Tax Commission.

(4) For purposes of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(A) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified ~~beneficiary's~~ *beneficiary* was established.

(B) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272 or otherwise.

(C) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the qualified entity or qualified shareholder, qualified member, or qualified beneficiary activities were immune from taxation by this state.

(D) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary.

(E) Demonstrations of good faith on the part of the qualified entity.

(F) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application of a voluntary disclosure agreement within 120 days of receipt.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as authorized in subdivision (a) and based on the criteria set forth in paragraph (4).

(c) Before any voluntary disclosure agreement becomes binding, the Franchise Tax Board, itself, shall approve the agreement in the following manner:

(1) The Executive Officer and Chief Counsel of the Franchise Tax Board shall recommend and submit the voluntary disclosure agreement to the Franchise Tax Board for approval.

(2) Each voluntary disclosure agreement recommendation shall be submitted in a manner as to maintain the anonymity of the taxpayer applying for the voluntary disclosure agreement.

(3) Any recommendation for approval of a voluntary disclosure agreement shall be approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation to the board.

(4) Any recommendation of a voluntary disclosure agreement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved.

(5) Disapproval of a recommendation of a voluntary disclosure agreement shall be made only by a majority vote of the Franchise Tax Board.

(6) The members of the Franchise Tax Board shall not participate in any voluntary disclosure agreement except as provided in this subdivision.

(d) The voluntary disclosure agreement entered into by the Franchise Tax Board and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary as provided for in subdivision (a) shall to the extent applicable specify that:

(1) The Franchise Tax Board shall with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as provided in paragraph (4), (6), or (9) of subdivision (a) of Section 19192:

(A) Waive its authority under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section

23001) to assess or propose to assess taxes, additions to tax, fees, or penalties with respect to each taxable year ending prior to six years from the signing date of the voluntary disclosure agreement.

(B) With respect to each of the six taxable years ending immediately preceding the signing date of the voluntary disclosure agreement, based on its discretion, agree to waive any or all of the following:

(i) Any penalty related to a failure to make and file a return, as provided in Section 19131.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in Section 19132.

(iii) Any addition to tax related to an underpayment of estimated tax, as provided in Section 19136.

(iv) Any penalty related to Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, as provided in Section 19141 *of this code*.

(v) Any penalty related to a failure to furnish information or maintain records, as provided in Section 19141.5.

(vi) Any addition to tax related to an underpayment of tax imposed under Part 11 (commencing with Section 23001), as provided in Section 19142.

(vii) Any penalty related to a partnership required to file a return under Section 18633, as provided in Section 19172.

(viii) Any penalty related to a failure to file information returns, as provided in Section 19183.

(ix) Any penalty related to relief from contract voidability, as provided in Section 23305.1.

(2) The qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall:

(A) With respect to each of the six taxable years ending immediately preceding the signing date of the written agreement:

(i) Voluntarily and fully disclose on the qualified entity's application all material facts pertinent to the qualified entity's, shareholder's, member's, or beneficiary's liability for any taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

(ii) Except as provided in paragraph (3), within 30 days from the signing date of the voluntary disclosure agreement:

(I) File all returns required under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001).

(II) Pay in full any tax, interest, fee, and penalties ~~(other~~, *other* than those penalties specifically waived by the Franchise Tax Board under the terms of the voluntary disclosure ~~agreement)~~ *agreement*, imposed under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) in a manner as may be prescribed by the Franchise Tax Board. Paragraph (1) of subdivision (f) of Section 25153 shall not apply to qualified entities admitted into the voluntary disclosure program.

(B) Agree to comply with all franchise and income tax laws of this state in subsequent taxable years by filing all returns required and paying all amounts due under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001).

(3) The Franchise Tax Board may extend the time for filing returns and paying amounts due to 120 days from the signing date of the voluntary disclosure agreement.

(e) The amendments to this section made by Chapter 954 of the Statutes of 1996 shall apply to taxable years beginning on or after January 1, 1997.

(f) The amendments to this section made by Chapter 543 of the Statutes of 2001 shall apply to voluntary disclosure agreements entered into on or after January 1, 2002.

~~(G)~~

(g) The amendments to this section made by ~~the act adding this subdivision~~ *Chapter 543 of the Statutes of 2001* shall apply to voluntary disclosure agreements entered into on or after January 1, 2005.

SEC. 624. Section 20621 of the Revenue and Taxation Code is amended to read:

20621. Each claimant applying for postponement under Article 2 (commencing with Section 20601) ~~of this chapter~~ shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain *all of the following*:

(a) Evidence acceptable to the Controller that the person was a "senior citizen ~~claimant",~~ *claimant"* or a "blind or disabled claimant."

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in a manner ~~as~~ *that* the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) *(1)* Documentation evidencing the current existence of any abstract of judgment, federal tax lien, or state tax lien filed or recorded against the applicant, and any recorded mortgage~~,~~ or deed of trust ~~which affect~~ *that affects* the subject residential dwelling, for the purpose of determining that the claimant possesses a ~~20 percent~~ *20-percent* equity in the subject residential dwelling as required by paragraph (1) of subdivision (b) of Section 20583.

(2) Actual costs, not in excess of fifty dollars ($50), paid by the claimant to obtain the documentation shall, in the event the Controller issues a certificate of eligibility, reduce the amount of the lien for the year, but not the face amount of the payment prescribed in Section 16180 *of the Government Code*.

(g) Other information required by the Controller to establish eligibility.

SEC. 625. Section 23060 of the Revenue and Taxation Code is amended to read:

23060. Provisions in other codes or General Law Statutes ~~which~~ *that* are related to this part include all of the following:

(a) Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code, relating to tax preparers.

(b) Sections 1502, 2204 to 2206, inclusive, 6210, 6810, 8210, and 8810 of the Corporations Code, relating to the corporation officer statement penalty.

(c) Section 2104 of the Corporations Code, that prevents the application of any provision of this part against any foreign lending institution whose activities in this state are limited to

those described in *subdivision (d) of* Section ~~191(d)~~ *191* of the Corporations Code.

(d) Sections 15700 to 15702.1, inclusive, of the Government Code, relating to the Franchise Tax Board.

(e) Part 10 (commencing with Section 17001), relating to the Personal Income Tax Law.

(f) Part 10.2 (commencing with Section 18401), relating to the Administration of Franchise and Income Taxes.

(g) Part 10.7 (commencing with Section 21001), relating to the Taxpayers' Bill of Rights.

(h) Part 18 (commencing with Section 38001), relating to the Multistate Tax Compact.

SEC. 626. Section 23202 of the Revenue and Taxation Code is amended to read:

23202. (a) In the case of a taxpayer ~~which~~ *who* has been a transferee in a reorganization to which Sections 23251 to 23254, inclusive ~~(or~~, *or* corresponding sections of prior ~~laws)~~ *laws*, were applicable, there shall be allowed as a credit for the taxable year of dissolution or withdrawal, the excess of the tax paid over the minimum tax paid by prior transferors or by the transferee as a transferor under Sections 23222 to 23224, inclusive ~~(or~~, *or* corresponding sections of prior ~~laws)~~ *laws*, for the first taxable year of the transferors ~~which~~ *that* constituted a full 12 months of doing business and whose income has been included in the measure of tax of a succeeding taxable year.

(b) The credit allowable under this section shall be in addition to any credit ~~which~~ *that* may be allowable to the taxpayer under Section 23201. However, any credit previously allowed under Section ~~2301~~ *23201*, *under* this section, or for a year in which the taxpayer or transferor ceased doing business, shall not be allowed again in computing a credit under this section.

SEC. 627. Section 23305b of the Revenue and Taxation Code is amended to read:

23305b. Notwithstanding ~~the provisions of~~ Section 23305, the Franchise Tax Board may revive a corporation to good standing without full payment of the taxes, penalties, and interest due if it determines that the revivor will improve the prospects for collection of the full amount due. ~~Such~~ *This* revivor may be limited as to time or may limit the functions the revived corporation can perform, or both. The corporate powers, rights,

and ~~privilege's~~ *privileges* may again be suspended or forfeited if the Franchise Tax Board determines that the prospects for collection of the full amount due have not been improved by the revivor of the corporation.

SEC. 628. Section 32364 of the Revenue and Taxation Code is amended to read:

32364. (a) If the board determines that the amount of tax, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the tax, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest ~~accrued~~ *accrued* thereon, is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that ~~such~~ *the* property has been released or that the lien has been subordinated as provided in the certificate.

SEC. 629. Section 32475 of the Revenue and Taxation Code is amended to read:

32475. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 5 (commencing with Section 32311) of Chapter 6.

(c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon *as* possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

(e) The board may release or subordinate a lien if the board determines that the release or subordination will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.

SEC. 630. Section 41120 of the Revenue and Taxation Code is amended to read:

41120. If any person is delinquent in the payment of the amount required to be paid by him or ~~in the event~~ *her or if* a determination has been made against him ~~which~~ *or her that* remains unpaid, the board may, not later than five years after the payment became delinquent, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political ~~subdivison~~ *subdivision* or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or *any* person against whom a determination has been made ~~which~~ *that* remains unpaid~~,~~ or owing any debts to the delinquent or ~~such~~ *that* person. In the case of any state officer, department, or agency, the notice shall be given to ~~such~~ *that* officer, department, or agency prior to the time it presents the claim of the delinquent to the State Controller.

SEC. 631. Section 41176 of the Revenue and Taxation Code is amended to read:

41176. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff ~~which~~ *that* contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under ~~subdivisions~~ *subdivision* (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 632. Section 45304 of the Revenue and Taxation Code is amended to read:

45304. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board

at or before the hearing. Unless the ~~25 percent~~ *25-percent* penalty imposed by subdivision (c) of Section 45201 applies to the amount of the determination as ~~orginally~~ *originally* made or as increased, the claim for increase shall be asserted within eight years after the date the amount of fee for the period for which the increase is asserted was due.

SEC. 633. Section 45451 of the Revenue and Taxation Code is amended to read:

45451. (a) If any person fails to pay any amount imposed pursuant to this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. A lien is subject to Chapter 14 (commencing with Section ~~7150~~ *7150)* of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are due and payable on the following dates:

(1) For amounts disclosed on a report received by the board before the date the return is delinquent, the date the amount would have been due and payable.

(2) For amounts disclosed on a report filed on or after the date the return is delinquent, the date the return is received by the board or the year following the fee due date pursuant to Section 45151, whichever is later.

(3) For amounts determined under Section 45351, pertaining to jeopardy assessments, the date the notice of the board's finding is mailed or issued.

(4) For all other amounts, the date the assessment is final.

SEC. 634. Section 45872 of the Revenue and Taxation Code is amended to read:

45872. (a) If any officer or employee of the board recklessly disregards board-published procedures, a fee payer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff ~~which~~ *that* contributed to the damages.

(d) Whenever it ~~appear~~ *appears* to the court that the fee payer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 635. Section 46442 of the Revenue and Taxation Code is amended to read:

46442. (a) Notice of the sale, and the time and place thereof, shall be given to the delinquent feepayer and to all persons who have an interest of record in the property at least 20 days before the date set for the sale in the following manner: The notice shall be personally served or enclosed in an envelope addressed to the feepayer or other person at his or her last known residence or place of business in this state as it appears upon the records of the board, if any, and ~~depositing it~~ *deposited* in the United States registered mail, postage prepaid. The notice shall be published pursuant to Section 6063 of the Government Code in a

newspaper of general circulation published in the city in which the property or a part thereof is situated if any part hereof is situated in a city or, if not, in a newspaper of general circulation published in the county in which the property or a part thereof is located. Notice shall also be posted in both of the following manners:

(1) One public place in the city in which the interest in property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest in the property is *to* be sold.

(2) One conspicuous place on the property.

(b) The notice shall contain a description of the property to be sold, a statement of the amount due, including fees, interest, penalties, and costs, the name of the feepayer, and the further statement that unless the amount due is paid on or before the time fixed in the notice of the sale, the property, or so much thereof as may be necessary, will be sold in accordance with law and the notice.

SEC. 636. Section 50124 of the Revenue and Taxation Code is amended to read:

50124. (a) If the board ~~detemines~~ *determines* that the amount of any fees, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the ~~fee~~ *fees* and penalties, the board may at any time release all, or any portion of, the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds the liability represented by the lien imposed under this article is legally unenforceable, the board may release the lien.

(c) A certificate by the board that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that the property has been released or that the lien has been subordinated, as provided in the certificate.

SEC. 637. Section 50145 of the Revenue and Taxation Code is amended to read:

50145. Within 90 days after the mailing of the notice of the board's action upon a claim for refund or credit, the claimant

may bring an action against the board, on the grounds set forth in the claim, in a court of competent ~~jurisdiciton~~ *jurisdiction* in the County of Sacramento for the recovery of the whole, or any part of, the amount with respect to which the claim has been disallowed.

SEC. 638. Section 156.3 of the Streets and Highways Code is amended to read:

156.3. For any project using state or federal transportation funds programmed after January 1, 2006, the department shall ~~insure~~ *ensure* that, if the project affects a stream crossing on a stream where anadromous fish are, or historically were, found, an assessment of potential barriers to fish passage is done prior to commencing project design. The department shall submit the assessment to the Department of Fish and Game and add it to the CALFISH database. If any structural barrier to passage exists, remediation of the problem shall be designed into the project by the implementing agency. New projects shall be constructed so that they do not present a barrier to fish passage. When barriers to fish passage are being addressed, plans and projects shall be developed in consultation with the Department of Fish and Game.

SEC. 639. Section 188.6 of the Streets and Highways Code is amended to read:

188.6. (a) (1) The Legislature finds and declares that on August 16, 2004, the department reported to the Legislature that the funds identified in Section 188.5 are insufficient to complete the state toll bridge seismic retrofit program, including the replacement of the east span of the San Francisco-Oakland Bay Bridge, due to cost overruns for the program now estimated at three billion six hundred million dollars ($3,600,000,000).

(2) By enacting this section, it is the intent of the Legislature to identify additional funds from various sources, as described in subdivision (b), in order to fund this shortfall and so that the toll bridge seismic retrofit and replacement program, as described in Section 188.5, as that section read on January 1, 2005, may proceed to completion without further costly delay.

(b) The following amounts from the following funds shall be allocated until expended in order to eliminate the shortfall identified in subdivision (a) and to complete the seismic retrofit

or replacement of state-owned toll bridges as expeditiously as possible:

(1) Not less than two billion one hundred fifty million dollars ($2,150,000,000) from the Bay Area Toll Account, derived from an additional one dollar ($1) surcharge on the state-owned toll bridges within the geographic jurisdiction of the Metropolitan Transportation Commission to be effective no sooner than January 1, 2007.

(2) Not less than eight hundred twenty million dollars ($820,000,000) for the seismic retrofit or replacement of the state-owned toll bridges in the geographic jurisdiction of the Metropolitan Transportation Commission made available through the consolidation of all toll revenues under the management of the Bay Area Toll Authority and from the authorization for the authority to refinance debt secured by toll revenues.

(3) The amount of three hundred million dollars ($300,000,000) to fund the cost of demolition of the existing east span of the San Francisco-Oakland Bay Bridge from funding sources supporting the state highway operations and protection program, from available state resources from transportation project savings, or from the federal Highway Bridge Replacement and Rehabilitation Program.

(4) The amount of three hundred thirty million dollars ($330,000,000) from the following accounts:

(A) One hundred thirty million dollars ($130,000,000) from the State Highway Account from accumulated savings by the department achieved from better efficiency, operational savings, and lower costs.

(B) One hundred twenty-five million dollars ($125,000,000) of any excess funds that would otherwise have been transferred in the 2006–07 fiscal year pursuant to subparagraph (F) of paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as amended by ~~Senate Bill 62 or Assembly Bill 127 of the 2005-06 Regular Session~~ *Chapter 76 of the Statutes of 2005*, shall instead be transferred to the Bay Area Toll Account and are hereby appropriated to the department for the purposes of this section. If sufficient funds are not available from this source for this purpose during the 2006–07 fiscal year, the funding required under this paragraph shall be made available from additional accumulated savings by the department achieved

from better efficiency, operational savings, or lower costs pursuant to subparagraph (A), or from the federal Highway Bridge Replacement and Rehabilitation Program or the State Highway Account, as determined by the department in consultation with, and with approval of, the California Transportation Commission.

(C) Seventy-five million dollars ($75,000,000) from the fund reserve in the Motor Vehicle Account for the 2005–06 fiscal year, which is hereby appropriated.

(c) If the amount of the overruns estimated by the department, as described in subdivision (a), is less than three billion six hundred million dollars ($3,600,000,000), the savings shall be shared between the state and the authority in the same proportion as their proportional contribution to the estimated cost overruns, as provided in paragraphs (1), (3), and (4) of subdivision (b).

(d) If the actual amount of the overruns exceeds the amount estimated by the department, as described in subdivision (a), the authority shall utilize funds generated under the powers granted to it in Sections 30886, 30950.2, 30954, 30961, and 31011 ~~by the act adding this section in the 2005-06 Regular Session~~ to provide additional financial resources to complete the state toll bridge seismic retrofit program.

(e) Funds made available under this section and Section 188.5 for the replacement of the east span of the San Francisco-Oakland Bay Bridge shall only be expended for the structure described in paragraph (9) of subdivision (b) of Section 188.5 as that section read on January 1, 2005.

SEC. 640. Section 2117 of the Streets and Highways Code is amended to read:

2117. *(a)* Whenever a school district constructs a school building for which any apportionment is made pursuant to Chapter ~~6~~ *4* (commencing with Section 15700) or Chapter ~~8~~ *6* (commencing with Section 16000) of Part 10 of the Education Code, and the city or county in which the school building is situated requires the construction of any street or road connected with the school premises on which the school building is constructed, the State Allocation Board shall review the requirement and recommend to the governing body of the city or county a plan of construction adequate to meet the needs of the school district and the safety of the public. If a different plan of

improvement or improvement to higher standards than that recommended by the State Allocation Board is required by the governing body of the city or county, the additional cost thereof shall be borne by the city or county in which the school building is situated. Notwithstanding any other provision of this code or any other law limiting the purposes for which money apportioned to cities or counties from the Highway Users Tax Account in the Transportation Tax Fund may be expended, any of the ~~money~~ *moneys* so apportioned may be expended for the construction of the streets or roads referred to in this section.

(b) Nothing in this section requires each cost item included in any charge made pursuant to this section to be separately stated.

SEC. 641. Section 6491.5 of the Streets and Highways Code is amended to read:

6491.5. Upon receipt of the application and fee, the street superintendent shall determine, or cause to be determined, an apportionment of the unpaid assessment to each separate part of the original lot or parcel of land, as if the lot or parcel of land *had* been so divided at the time the original assessment was made.

SEC. 642. Section 30162 of the Streets and Highways Code is amended to read:

30162. If the department is unable to collect any tolls due to insolvency of the obligor, or if the cost of collection of any tolls would be excessive by reason of the smallness of the amount due, the department may apply to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for discharge from accountability for the collection thereof in the manner provided in Sections 13940 to 13943, inclusive, of the Government Code.

SEC. 643. Section 1222 of the Unemployment Insurance Code is amended to read:

1222. Within 30 days of service of any notice of assessment or denial of claim for refund or credit under ~~Sections~~ *Section* 803, 821, or 991, or of any notice under Sections 704.1, 1035, 1055, 1127.5, 1131, 1142, 1143, 1144, 1180, 1184, 1733, and 1735, any employing unit or other person given the notice, or any employing unit affected by a granting or denial of a transfer of reserve account, may file a petition for review or reassessment with an administrative law judge. The administrative law judge may for good cause grant an additional 30 days for the filing of a

petition. If a petition for reassessment is not filed within the 30-day period, or within the additional period granted by the administrative law judge, an assessment is final at the expiration of the period. If a petition for review of a termination of elective coverage under Section 704.1 is not filed within the 30-day period, or within the additional period granted by the administrative law judge, the termination is final at the expiration of the period. If the director fails to serve notice of his or her action within 60 days after a claim for refund or credit is filed, the person or employing unit may consider the claim denied and file a petition with an administrative law judge.

SEC. 644. Section 1256.5 of the Unemployment Insurance Code is amended to read:

1256.5. *(a)* An individual shall be deemed to have left his or her most recent work with good cause if the director finds that he or she leaves employment because of sexual harassment~~,~~ ~~provided~~ *if* the individual has taken reasonable steps to preserve the working relationship. No steps shall be required if the director finds it would have been futile. For purposes of this subdivision, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature constitutes sexual harassment when any of the following occur:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) Findings of fact and law by the director shall not collaterally estop adjudication of the issue of sexual harassment in another forum.

SEC. 645. Section 1262 of the Unemployment Insurance Code is amended to read:

1262. An individual is not eligible for unemployment compensation benefits, and ~~no such benefit~~ *these benefits* shall *not* be payable to him *or her,* if ~~he~~ *the individual* left his *or her* work because of a trade dispute. ~~Such~~ *The* individual shall

remain ineligible for the period during which he *or she* continues out of work by reason of the fact that the trade dispute is still in active progress in the establishment in which he *or she* was employed.

SEC. 646. Section 1855 of the Unemployment Insurance Code is amended to read:

1855. (a) A civil action may be commenced at the request of the director in the name of the State of California to enjoin any individual or entity from conduct ~~which~~ *that*, by solicitation, sale, or advertising, is inducing or otherwise attempting to persuade employers or employees, or potential employers or employees, to violate this code or to otherwise attempt to evade contributions or taxes provided for under this code by scheme, device, or similar activity. Any action under this section shall be brought in the Superior Court of the County of Sacramento or in the superior court of the county in which that individual or entity resides, has its principal place of business, or has engaged in conduct subject to penalty under this code.

(b) In any action under subdivision (a), the court may enjoin the person from engaging in the conduct or in any other activity specified in subdivision (a), if the court finds both of the following:

(1) That the person has engaged in any conduct specified in subdivision (a).

(2) That injunctive relief is appropriate to prevent recurrence of that conduct.

(c) For purposes of the civil action referred to in ~~paragraphs~~ *subdivisions* (a) and (b), the court may issue without bond, a temporary restraining order upon the filing of a statement, certified by the director, which contains ~~all~~ *both* of the following:

(1) That a determination has been made that the individual or entity is engaging in conduct described in subdivision (a), accompanied by a detailed description of the reasons for the determination.

(2) That the activity of the individual or entity will result in the nonpayment of contributions or taxes required under this code and that the contributions or taxes would be otherwise payable.

~~(c)~~

(d) The director shall provide the court clerk with an exact copy of the certified statement upon filing, which copy will be

endorsed or certified by the court clerk and returned to the director, along with a certified copy of the court's order. From the time of service of the endorsed or certified copy of the statement and order, that individual or entity shall be temporarily restrained from the activity set forth in the statement. That temporary restraining order will continue in effect unless dissolved after a hearing on a preliminary injunction in the Superior Court of Sacramento County or the county in which the individual or entity resides, ~~is~~ *has* its place of business, or has engaged in the conduct specified in the statement. That hearing or preliminary injunction shall be held under the rules of the superior court.

SEC. 647. Section 3254.5 of the Unemployment Insurance Code is amended to read:

3254.5. A voluntary plan in force and effect at the time a successor employing unit acquires the organization, trade, or business, or substantially all the assets thereof, or a distinct and severable portion of the organization, trade, or business, and continues its operation without substantial reduction of personnel resulting from the acquisition, shall not withdraw without specific request for withdrawal thereof. The successor employing unit and the insurer shall be deemed to have consented to the provisions of the plan unless written request for withdrawal, effective as of the date of acquisition, is transmitted to the Director of Employment Development, by the employer or the insurer, within 30 days after the acquisition date, or within 30 days after notification from the Director of Employment Development that the plan is to continue, whichever is later. Unless the plan is withdrawn as of the date of acquisition by the successor employer or the insurer, a written request for withdrawal shall be effective only on the anniversary of the effective date of the plan next occurring on or after the date of acquisition, except that the plan may be withdrawn on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the withdrawal of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of law or change. If the plan is not withdrawn on 30 days' notice because of the enactment of a

law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to *the* increase or change on the operative date of the increase or change. Promptly, upon notice of change in ownership, any insurer of a plan shall prepare and issue policy forms and amendments as required, unless the plan is withdrawn. Nothing ~~herein~~ contained *in this section* shall prevent future withdrawal of any plans on an anniversary of the effective date of the plan upon 30 days' notice, except that the plan may be withdrawn on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the withdrawal of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of *the* law or change. If the plan is not withdrawn on 30 days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to *the* increase or change on the operative date of the increase or change.

SEC. 648. Section 4701 of the Unemployment Insurance Code is amended to read:

4701. (a) *(1)* Any employer who is entitled under Section 4654 to notice of the filing of an application or additional claim and who, within 10 days after mailing of the notice, submits to the department any facts within its possession disclosing whether the individual left the most recent employment with the employer voluntarily and without good cause or was discharged from the employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left the employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available or whether the claimant's discharge or quit from his or her most recent employer was the result of an ~~irresistable~~ *irresistible* compulsion to use or consume intoxicants including alcoholic

beverages, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit these facts may be extended by the director for good cause.

(2) For purposes of this section, "spouse" includes a person to whom marriage is imminent.

(b) The department shall consider the facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 4655, the department shall promptly issue to the employer its ruling as to the cause of the termination of the individual's most recent employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling ~~which~~ *that* relates to a determination ~~which~~ *that* is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that determination.

(c) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 649. Section 9608 of the Unemployment Insurance Code is amended to read:

9608. The director shall, within each community employment development center, establish an intake system to appraise the individual needs of applicants. Each community employment development center shall provide the following services:

(a) Job referral and labor market information services to applicants who are occupationally competitive and qualified by training or experience in the labor market. These applicants shall be encouraged to utilize self-help services.

(b) Employment exploration and job development services to applicants who are employable but need some directed assistance in planning an effective job search or coping with minor barriers to employment. Employment exploration and job development services are designed *as follows*:

(1) To prepare groups of applicants to use job referral and information services by instructing them in job finding techniques and how to initiate their own job search.

(2) To assist applicants directly by developing job opportunities.

(3) To provide, as necessary, usually on a one-time basis, the following services:

(A) Contacting an employer to explain an applicant's qualifications or limitations, such as a disability not affecting ability to work, in relation to requirements for a particular job and arranging an interview.

(B) A more thorough appraisal of the applicant's capabilities and desires in relation to the job market than is required of an applicant seeking only job referral and labor market information.

(4) To arrange for short-term supplemental services.

(c) Individual employability development and placement services to applicants who are potentially employable but are in need of more intensive services before becoming employable because they ~~are~~ have vocational barriers due to disability, lack of skills, obsolescence of job skills, limited education, or poor work habits and attitudes. Intensive employability services shall be provided by case-responsible persons to applicants where case-responsible persons are assigned.

(d) Through case managers or case-responsible persons, case services to applicants to the extent funds are available. Case services funds may be made available for services to the disadvantaged. "Case services" means an applicant's expenses

necessary for or incident to training or employability development and includes, but is not limited to, the following:

(1) Medical and dental treatment necessary for employability.

(2) Temporary child care.

(3) Transportation costs.

(4) Wearing apparel.

(5) Books and supplies.

(6) Tools and safety equipment.

(7) Union fees.

(8) Business license fees.

SEC. 650. Section 10200 of the Unemployment Insurance Code is amended to read:

10200. The Legislature finds and declares the following:

(a) California's economy is being challenged by competition from other states and overseas. In order to meet this challenge, California's employers, workers, labor organizations, and government need to invest in a skilled and productive workforce, and in developing the skills of frontline workers. For purposes of this section, "frontline worker" means a worker who directly produces or delivers goods or services.

The purpose of this chapter is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy that shall fund only projects that meet the following criteria:

(1) Foster creation of high-wage, high-skilled jobs, or foster retention of high-wage, high-skilled jobs in manufacturing and other industries that are threatened by out-of-state and global competition, including, but not limited to, those industries in which targeted training resources for California's small and medium-sized business suppliers will increase the state's competitiveness to secure federal, private sector, and other nonstate funds. ~~Provide~~ *In addition, provide* for retraining contracts in companies that make a monetary or in-kind contribution to the funded training enhancements.

(2) Encourage industry-based investment in human resources development that promotes the competitiveness of California industry through productivity and product quality enhancements.

(3) Result in secure jobs for those who successfully complete training. All training shall be customized to the specific

requirements of one or more employers or a discrete industry and shall include general skills that trainees can use in the future.

(4) Supplement, rather than displace, funds available through existing programs conducted by employers and government-funded training programs, such as the Workforce Investment Act of 1998 *(29 U.S.C. Sec. 2801 et. seq.)*, the Carl D. Perkins Vocational Education Act *(P.L. 98-524)*, CalWORKs*(Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code)*, the Enterprise Zone Act*(Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code)*, and the Stewart B. McKinney Homeless Assistance Act*(42 U.S.C. Sec. 290aa)*, the California Community Colleges Economic Development Program, or apportionment funds allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs developed pursuant to this chapter shall not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

(b) The Employment Training Panel, in funding projects that meet the requirements of subdivision (a), shall give funding priority to those projects that best meet the following goals:

(1) Result in the growth of the California economy by stimulating exports from the state, and the production of goods and services that would otherwise be imported from outside the state.

(2) Train new employees of firms locating or expanding in the state that provide high-skilled, high-wage jobs and are committed to an ongoing investment in the training of frontline workers.

(3) Develop workers with skills that prepare them for the challenges of a high performance workplace of the future.

(4) Train workers who have been displaced, have received notification of impending layoff, or are subject to displacement, because of a plant closure, workforce reduction, changes in technology, or significantly increasing levels of international and out-of-state competition.

(5) Are jointly developed by business management and worker representatives.

(6) Develop career ladders for workers.

(7) Promote the retention and expansion of the state's manufacturing workforce.

(c) The program established through this chapter is to be coordinated with all existing employment training programs and economic development programs, including, but not limited to, programs such as the Workforce Investment Act of 1998 *(29 U.S.C. Sec. 2801 et seq.)*, the California Community Colleges, the regional occupational programs, vocational education programs, joint labor-management training programs, and related programs under the Employment Development Department and the Business, Transportation and Housing Agency.

SEC. 651. Section 13002 of the Unemployment Insurance Code is amended to read:

13002. The following provisions of this code shall apply to any amount required to be deducted, reported, and paid to the department under this division:

~~(1)~~

(a) Sections 301, 305, 306, 310, 311, 312, 317, and 318, relating to general administrative powers of the department.

~~(2)~~

(b) Sections 403 to 413, inclusive, Section 1336, and Chapter 8 (commencing with Section 1951) of Part 1 of Division 1, relating to appeals and hearing procedures.

~~(3)~~

(c) Sections 1110.6, 1111, 1111.5, 1112, 1113, 1113.1, 1114, 1115, 1116, and 1117, relating to the making of returns or the payment of reported contributions.

~~(4)~~

(d) Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of Division 1, relating to assessments.

~~(5)~~

(e) Article 9 (commencing with Section 1176), except Section 1176, of Chapter 4 of Part 1 of Division 1, relating to refunds and overpayments.

~~(6)~~

(f) Article 10 (commencing with Section 1206) of Chapter 4 of Part 1 of Division 1, relating to notice.

~~(7)~~

(g) Article 11 (commencing with Section 1221) of Chapter 4 of Part 1 of Division 1, relating to administrative appellate review.

~~(8)~~

(h) Article 12 (commencing with Section 1241) of Chapter 4 of Part 1 of Division 1, relating to judicial review.

~~(9)~~

(i) Chapter 7 (commencing with Section 1701) of Part 1 of Division 1, relating to collections.

~~(10)~~

(j) Chapter 10 (commencing with Section 2101) of Part 1 of Division 1, relating to violations.

SEC. 652. Section 13021 of the Unemployment Insurance Code is amended to read:

13021. (a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages or payments are paid in the quarter, file a withholding report and a report of wages in a form prescribed by the department, and pay over the taxes so required to be withheld. The report of wages shall include individual amounts required to be withheld under Section 13020 or withheld under Section 13028. Except as provided in subdivisions (c) and (d) ~~of this section~~, the employer shall file a withholding report and remit the total amount of income taxes withheld during the calendar quarter on or before the last day of the month following the close of the calendar quarter.

(b) Every employer electing to file a single annual return under subdivision (d) of Section 1110 shall report and pay any taxes withheld under Section 13020 on an annual basis within the time specified in subdivision (d) of Section 1110.

(c) (1) Effective January 1, 1995, whenever an employer is required, for federal income tax purposes, to remit the total amount of withheld federal income tax in accordance with Section 6302 of the Internal Revenue Code and regulations thereunder, and the accumulated amount of state income tax withheld is more than five hundred dollars ($500), the employer shall remit the total amount of income tax withheld for state income tax purposes within the number of banking days as specified for withheld federal income taxes by Section 6302 of the Internal Revenue Code, and regulations thereunder.

(2) Effective January 1, 1996, the five hundred dollar ($500) amount referred to in paragraph (1) shall be adjusted annually as follows, based on the annual average rate of interest earned on the Pooled Money Investment Fund as of June 30 in the prior fiscal year:

Average Rate of Interest	
Greater than or equal to 9 percent:	$ 75
Less than 9 percent, but greater than or equal to 7 percent:	250
Less than 7 percent, but greater than or equal to 4 percent:	400
Less than 4 percent:	500

(d) (1) Notwithstanding subdivisions (a) and (c), for calendar years beginning prior to January 1, 1995, if in the 12-month period ending June 30 of the prior year the cumulative average payment made pursuant to this division or Section 1110, for ~~eight-monthly~~ *eight-month* periods, as defined under Section 6302 of the Internal Revenue Code and regulations thereunder, was fifty thousand dollars ($50,000) or more, the employer shall remit the total amount of income tax withheld within three banking days following the close of each ~~eight-monthly~~ *eight-month* period, as defined by Section 6302 of the Internal Revenue Code and regulations thereunder. For purposes of this subdivision, payment shall be made by electronic funds transfer in accordance with Section 13021.5, for one calendar year beginning on January 1. Payment is deemed complete on the date the electronic funds transfer is initiated~~,~~ if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed complete on the date settlement occurs. The department shall, on or before October 31 of the prior year, notify all employers required to make payment by electronic funds transfer of these requirements.

(2) Notwithstanding subdivisions (a) and (c), for calendar years beginning on or after January 1, 1995, if in the 12-month period ending June 30 of the prior year, the cumulative average

payment made pursuant to this division or Section 1110 for any deposit periods, as defined under Section 6302 of the Internal Revenue Code and regulations thereunder, was twenty thousand dollars ($20,000) or more, the employer shall remit the total amount of income tax withheld within the number of banking days as specified for federal income taxes by Section 6302 of the Internal Revenue Code and regulations thereunder. For purposes of this subdivision, payment shall be made by electronic funds transfer in accordance with Section 13021.5, for one calendar year beginning on January 1. Payment is deemed complete on the date the electronic funds transfer is initiated; if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed complete on the date settlement occurs. The department shall, on or before October 31 of the prior year, notify all employers required by this paragraph to make payments by electronic funds transfer of these requirements.

(3) Notwithstanding paragraph (2), effective January 1, 1995, electronic funds transfer payments that are subject to the one-day deposit rule, as defined by Section 6302 of the Internal Revenue Code and regulations thereunder, shall be deemed timely if the payment settles to the state's demand account within three banking days after the date the employer meets the threshold for the one-day deposit rule.

(4) Any taxpayer required to remit payments pursuant to paragraphs (1) and (2) may request from the department a waiver of those requirements. The department may grant a waiver only if it determines that the particular amounts paid in excess of fifty thousand dollars ($50,000) or twenty thousand dollars ($20,000), as stated in paragraphs (1) and (2), respectively, were the result of an unprecedented occurrence for that employer, and were not representative of the employer's cumulative average payment in prior years.

(5) Any state agency required to remit payments pursuant to paragraphs (1) and (2) may request a waiver of those requirements from the department. The department may grant a waiver if it determines that there will not be a negative impact on the interest earnings of the General Fund. If there is a negative

impact to the General Fund, the department may grant a waiver if the requesting state agency follows procedures designated by the department to mitigate the impact to the General Fund.

(e) Any employer not required to make payment pursuant to subdivision (d) of this section may elect to make payment by electronic funds transfer in accordance with Section 13021.5 under the following conditions:

(1) The election shall be made in a form, and shall contain information, as prescribed by the director, and shall be subject to approval by the department.

(2) If approved, the election shall be effective on the date specified in the notification to the employer of approval.

(3) The election shall be operative from the date specified in the notification of approval, and shall continue in effect until terminated by the employer or the department.

(4) Funds remitted by electronic funds transfer pursuant to this subdivision shall be deemed complete in accordance with subdivision (d) or as deemed appropriate by the director to encourage use of this payment method.

(f) Notwithstanding Section 1112, no interest or penalties shall be assessed against any employer who remits at least 95 percent of the amount required by subdivision (c) or (d)~~, provided that~~ *if* the failure to remit the full amount is not willful and any remaining amount due is paid with the next payment. The director may allow any employer to submit the amounts due from multiple locations upon a showing that those submissions are necessary to comply with ~~the provisions of~~ subdivision (c) or (d).

(g) The department may, if it believes that action is necessary, require any employer to make the report required by this section and pay to it the tax deducted and withheld at any time, or from time to time but no less frequently than provided for in subdivision (a).

(h) Any employer required to withhold any tax and who is not required to make payment under subdivision (c) shall remit the total amount of income tax withheld during each month of each calendar quarter, on or before the 15th day of the subsequent month if the income tax withheld for any of the three months or, cumulatively for two or more months, is three hundred fifty dollars ($350) or more.

(i) For purposes of subdivisions (a), (c), and (h), payment is deemed complete when it is placed in a properly addressed envelope, bearing the correct postage, and it is deposited in the United States mail.

(j) In addition to the withholding report and report of wages described in subdivision (a), each employer shall file with the director an annual reconciliation return showing the amount required to be withheld under Section 13020, and any other information the director shall prescribe. This annual reconciliation return shall be due on the first day of January following the close of the prior calendar year and shall become delinquent if not filed on or before the last day of that month.

SEC. 653. Section 1671 of the Vehicle Code is amended to read:

1671. (a) The established place of business of a dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school shall have an office and a dealer, manufacturer, or remanufacturer shall also have a display or manufacturing area situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single- or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to and occupied for the office or offices of the dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school, shall be located on the ground floor, and shall be so constructed as to provide a direct entrance into the room or rooms from the exterior of the building. A dealer who does not offer new or used vehicles for sale at retail, a dealer who has been issued an autobroker’s endorsement to his or her dealer’s license and who does not also sell motor vehicles at retail, or a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers, shall have an office, but a display area is not required.

(b) The established place of business of an automobile dismantler shall have an office and a dismantling area located in

a zone ~~property~~ *properly* zoned for that purpose by the city or county.

SEC. 654. Section 2423 of the Vehicle Code is amended to read:

2423. In approving the additional instruction and training required under subdivision (b) of Section 680, the department shall consider the requirements of ~~Article 4~~ *Chapter 3* (commencing with Section 40080) ~~of Chapter 6~~ of Part ~~23 of Division 3 of Title 2~~ *23.5* of the Education Code, as those provisions relate to instruction and training requirements for schoolbus drivers and school pupil activity bus drivers.

SEC. 655. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by its model, model-year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make, model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current when ensuing year models are available for purchase at retail in California. Any advertisement that offers for sale a class of new vehicles in a dealer's inventory, consisting of five or more vehicles, that are all of the same make, model, and model-year is not required to include in the advertisement the vehicle identification numbers or license numbers of those vehicles.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, the California tire fee, as defined in Section 42885 of the Public Resources Code, emission testing fees not exceeding fifty dollars ($50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed forty-five dollars ($45).

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of

sale, charges for sales tax, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

(2) The obligations imposed by paragraph (1) shall be satisfied by adding to the advertisement a statement containing no abbreviations and that is worded in substantially the following form: "Plus government fees and taxes, any finance charges, any dealer document preparation charge, and any emission testing charge."

(3) For purposes of paragraph (1), "advertisement" means any advertisement in a newspaper, magazine, or direct mail publication that is two or more columns in width or one column in width and more than seven inches in length, or on any Web page of a dealer's Web site that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer document preparation charge, which charges shall not exceed forty-five dollars ($45) for the document preparation charge and not to exceed fifty dollars ($50) for emission testing plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed. Advertised vehicles shall be sold at or below the advertised total price, with statutorily permitted exclusions, regardless of whether the purchaser has knowledge of the advertised total price.

(f) (1) Advertise for sale, sell, or purchase for resale any new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to any transaction involving any of the following:

(A) A mobilehome.

(B) A recreational vehicle, as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification, as defined in Section 38012.

(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(G) A commercial vehicle with a gross vehicle weight rating of more than 10,000 pounds.

(H) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. ~~The term "free"~~ *"Free"* includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) *(1)* Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as "starting at," "from," "beginning as low as," or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

(2) For purposes of this subdivision, in any newspaper advertisement for a vehicle that is two model-years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be ~~(1)~~ printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price~~, however~~. *However*, in no case shall the phrase be printed in less than 8-point type size~~, and (2)~~. *The phrase shall* be disclosed immediately above, below, or beside the advertised price without any intervening words, pictures, marks, or symbols.

(3) The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use ~~the term~~ "rebate" or similar words such as "cash back" in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use ~~the terms~~ "invoice," "dealer's invoice," "wholesale price," or similar terms that refer to a dealer's cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the

prospective purchaser initiates a discussion of the vehicle's invoice price or the dealer's cost for that vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price ~~which~~ *that* exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item ~~which~~ *that* is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, ~~then~~ the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells

its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) *(1)* Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

(2) For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner, in at least 10-point ~~bold~~ *boldface* type, on the face of any contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.

(y) As used in this section, ~~the terms~~ "make" and "model" have the same meaning as is provided in Section 565.3 of Title 49 of the Code of Federal Regulations.

SEC. 656. Section 12509 of the Vehicle Code is amended to read:

12509. (a) Except as otherwise provided in subdivision (f) of Section 12514, the department, for good cause, may issue an instruction permit to any physically and mentally qualified person who meets one of the following requirements and who applies to the department for an instruction permit:

(1) Is age 15 years and 6 months or ~~over~~ *older*, and has successfully completed approved courses in automobile driver education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(2) Is age 15 years and 6 months or ~~over~~ *older*, and has successfully completed an approved course in automobile driver education and is taking driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(3) Is age 15 years and 6 months and enrolled and participating in an integrated driver education *and training* program as provided in subparagraph (B) of paragraph (3) of subdivision (a) of Section 12814.6.

(4) Is over the age of 16 years and is applying for a restricted driver's license pursuant to Section 12814.7.

(5) Is over the age of 17 years and 6 months.

(b) The applicant shall qualify for, and be issued, an instruction permit within 12 months from the date of the application.

(c) An instruction permit issued pursuant to subdivision (a) shall entitle the applicant to operate a vehicle, subject to the limitations imposed by this section and any other provisions of law, upon the highways for a period not exceeding 24 months from the date of the application.

(d) Except as provided in Section 12814.6, a person, while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), may operate a motor vehicle, other than a motorcycle, motorized scooter, or a motorized bicycle, when accompanied by, and under the immediate supervision of, a California licensed driver with a valid license of the appropriate class, 18 years of age or over whose driving privilege is not on probation. Except as provided in subdivision (e), an accompanying licensed driver at all times shall occupy a position within the driver's compartment that

would enable the accompanying licensed driver to assist the person in controlling the vehicle as may be necessary to avoid a collision and to provide immediate guidance in the safe operation of the vehicle.

(e) A person, while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), who is age 15 years and 6 months or ~~over~~ *older* and who has successfully completed approved courses in automobile education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6, and a person, while having in his or her immediate possession a valid permit issued pursuant to subdivision (a), who is age 17 years and 6 months or ~~over~~ *older*, may, in addition to operating a motor vehicle pursuant to subdivision (d), also operate a motorcycle, motorized scooter, or a motorized bicycle, except that the person shall not operate a motorcycle, motorized scooter, or a motorized bicycle during hours of darkness, shall stay off any freeways that have full control of access and no crossings at grade, and shall not carry any passenger except an instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 of this code or a qualified instructor as defined in Section ~~18252.2~~ *41907* of the Education Code.

(f) A person, while having in his or her immediate possession a valid permit issued pursuant to paragraph (4) of subdivision (a), may only operate a government-owned motor vehicle, other than a motorcycle, motorized scooter, or a motorized bicycle, when taking a driver training instruction administered by the California National Guard.

(g) The department may also issue an instruction permit to a person who has been issued a valid driver's license to authorize the person to obtain driver training instruction and to practice that instruction in order to obtain another class of driver's license or an endorsement.

(h) The department may further restrict permits issued under subdivision (a) as it may determine to be appropriate to assure the safe operation of a motor vehicle by the permittee.

SEC. 657. Section 12811 of the Vehicle Code, as amended by Section 1 of Chapter 665 of the Statutes of 2005, is amended to read:

12811. (a) (1) (A) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall contain the distinguishing number assigned to the applicant, the date of expiration, the true full name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

(B) Each license shall also contain a space for the endorsement of a record of each suspension or revocation thereof.

(C) The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(2) In addition to the requirements of paragraph (1), a license issued to a person under 18 years of age shall display the words "provisional until age 18."

(b) (1) The front of an application for an original or renewal of a driver's license or identification card shall contain a space for any applicant, age 16 *years* or older, to give his or her consent to be an organ and tissue donor upon death. An applicant who gives consent shall be directed to read a statement on the back of the application that shall contain the following statement:

"If you marked on the front of the application that you want to be an organ and tissue donor upon death, your consent shall serve as a legally binding document as outlined under the California Uniform Anatomical Gift Act. Except in the case where the donor is under the age of 18, the donation does not require the consent of any other person. For donors under the age of 18, the legal guardian of the ~~donee~~ *donor* shall make the final decision regarding the donation. If you want to change your decision to consent in the future, or if you want to limit the donation to specific organs or tissues, you must contact Donate Life California by mail at 1760 Creekside Oaks Drive, #160, Sacramento, CA 95833, or through the World Wide Web at www.donateLIFEcalifornia.org, or www.doneVIDAcalifornia.org."

(2) Notwithstanding any other provision of law, a person under *the* age *of* 18 *years* may register as a donor. However, the legal guardian of that person shall make the final decision regarding the donation.

(3) The department shall collect donor designation information on all applications for an original or renewal driver's license or identification card.

(4) The department shall print the word "DONOR" or another appropriate designation on the face of a driver's license or identification card ~~to~~ *for* a person who registered as a donor on a form issued under this section.

(5) On a weekly basis, the department shall electronically transmit to Donate Life California, a nonprofit organization established and designated as the California Organ and Tissue Donor Registrar pursuant to Section 7152.7 of the Health and Safety Code, all of the following information on every applicant that has indicated his or her willingness to participate in the organ donation program:

(A) His or her true full name.

(B) His or her residence or mailing address.

(C) His or her date of birth.

(D) His or her California driver's license number or identification card number.

(6) (A) A person who applies for an original or renewal driver's license or identification card may designate a voluntary contribution of two dollars ($2) for the purpose of promoting and supporting organ and tissue donation. This contribution shall be collected by the department, and treated as a voluntary contribution to Donate Life California and not as a fee for the issuance of a driver's license or identification card.

(B) The department may use the donations collected under this paragraph to cover its actual administrative costs incurred under paragraphs (3) to (5), inclusive. The department shall deposit all revenue derived under this paragraph and remaining after the department's deduction for administrative costs in the Donate Life California Trust Subaccount, which is hereby created in the Motor Vehicle Account in the State Transportation Fund. Notwithstanding Section 13340 of the Government Code, all revenue in this subaccount is continuously appropriated, without regard to fiscal years, to the Controller for allocation to Donate

Life California and shall be expended for the purpose of increasing participation in organ donation programs.

(7) The enrollment form shall be posted on the Internet Web sites for the department and the California Health and Human Services Agency.

(8) The enrollment shall constitute a legal document under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code) and shall remain binding after the donor's death despite any express desires of next of kin opposed to the donation. Except as provided in paragraph (2) ~~of subdivision (b)~~, the donation does not require the consent of any other person.

(9) Donate Life California shall ensure that all additions and deletions to the California Organ and Tissue Donor Registry, established pursuant to Section 7152.7 of the Health and Safety Code, ~~shall~~ occur within 30 days of receipt.

(10) Information obtained by Donate Life California for the purposes of this subdivision shall be used for these purposes only and shall not be disseminated further by Donate Life California.

(c) A public entity or employee shall not be liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the form provided pursuant to subdivision (b).

(d) A contract shall not be awarded to any nongovernmental entity for the processing of driver's licenses, unless the contract conforms to all applicable state contracting laws and all applicable procedures set forth in the State Contracting Manual.

(e) This section shall become operative on July 1, 2006.

SEC. 658. Section 14602.6 of the Vehicle Code is amended to read:

14602.6. (a) (1) Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked, driving a vehicle while his or her driving privilege is restricted pursuant to Section 13352 or 23575 and the vehicle is not equipped with a functioning, certified interlock device, or driving a vehicle without ever having been issued a driver's license, the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle without the

necessity of arresting the person in accordance with Chapter 10 (commencing with Section 22650) of Division 11. A vehicle so impounded shall be impounded for 30 days.

(2) The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the department, informing the owner that the vehicle has been impounded. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 days' impoundment when the legal owner redeems the impounded vehicle. The impounding agency shall maintain a published telephone number that provides information 24 hours a day regarding the impoundment of vehicles and the rights of a registered owner to request a hearing.

(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or ~~their~~ *his or her* agents shall be provided the opportunity for a storage hearing to determine the validity of, or consider any mitigating circumstances attendant to, the storage, in accordance with Section 22852.

(c) Any period in which a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (a) of Section 14602.5.

(d) (1) An impounding agency shall release a vehicle to the registered owner or his or her agent prior to the end of 30 days' impoundment under any of the following circumstances:

(A) When the vehicle is a stolen vehicle.

(B) When the vehicle is subject to bailment and is driven by an unlicensed employee of a business establishment, including a parking service or repair garage.

(C) When the license of the driver was suspended or revoked for an offense other than those included in Article 2 (commencing with Section 13200) of Chapter 2 of Division 6 or Article 3 (commencing with Section 13350) of Chapter 2 of Division 6.

(D) When the vehicle was seized under this section for an offense that does not authorize the seizure of the vehicle.

(E) When the driver reinstates his or her driver's license or acquires a driver's license and proper insurance.

(2) No vehicle shall be released pursuant to this subdivision without presentation of the registered owner's or agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(e) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(f) A vehicle removed and seized under subdivision (a) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of 30 days' impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1)~~,~~ or the legal owner's agent any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

(3) *(A)* The legal owner or the legal owner's agent presents either lawful foreclosure documents or an affidavit of repossession for the vehicle, and a security agreement or title showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency shall not require any documents to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(B) No administrative costs authorized under subdivision (a) of Section 22850.5 shall be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. No city, county, city ~~or~~ *and* county, or state agency shall require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The impounding agency shall not require any documents other than those specified in this paragraph. The impounding agency shall not require any documents to be notarized.

(C) As used in this paragraph, "foreclosure documents" means an "assignment" as that term is defined in subdivision (o) of Section 7500.1 of the Business and Professions Code.

(g) (1) A legal owner or the legal owner's agent that obtains release of the vehicle pursuant to subdivision (f) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner, unless the registered owner is a rental car agency, until after the termination of the 30-day impoundment period.

(2) The legal owner or the legal owner's agent may not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the license presented is valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(h) (1) A vehicle removed and seized under subdivision (a) shall be released to a rental car agency prior to the end of 30 days' impoundment if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the

vehicle. However, the rental car agency may not rent another vehicle to the driver of the vehicle that was seized until 30 days after the date that the vehicle was seized.

(3) The rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining custody of the vehicle.

(i) Notwithstanding any other provision of this section, the registered owner and not the legal owner shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized under Section 22850.5, and any parking fines, penalties, and administrative fees incurred by the registered owner.

(j) The impounding agency is not liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent provided the release complies with ~~the provisions of~~ this section.

SEC. 659. Section 15242 of the Vehicle Code is amended to read:

15242. (a) A person who is self-employed as a commercial motor vehicle driver shall comply with both the requirements of this chapter pertaining to employers and those pertaining to employees.

(b) Notwithstanding subdivision (a), a motor carrier that engages a person who owns, leases, or otherwise operates not more than one motor vehicle listed in Section 34500 to provide transportation services under the direction and control of that motor carrier is responsible for the compliance of that person with this chapter and for purposes of the regulations adopted by the department pursuant to Section 34501 during the period of that direction and control.

(c) For the purposes of subdivision (b), "direction and control" means either of the following:

(1) The person is operating under the motor carrier's interstate operating authority issued by the United States Department of Transportation.

(2) The person is operating under a subcontract with the motor carrier that requires ~~that~~ the person to operate in intrastate commerce and the person has performed transportation services

for a minimum of 60 calendar days within the past 90 calendar days for the motor carrier and has been on duty for that carrier for no less than 36 hours within any week in which transportation services were provided.

(d) Subdivision (b) shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any purpose.

SEC. 660. Section 17155 of the Vehicle Code is amended to read:

17155. ~~Where~~ *If* two or more persons are injured or killed in one accident, the owner, bailee of an owner, or personal representative of a decedent may settle and pay any bona fide claims for damages arising out of personal injuries or death, whether reduced ~~or~~ *by* judgment or not, and the payments shall diminish, to the extent ~~thereof such~~ *of those payments, the* person's total liability on account of the accident. Payments aggregating the full sum of thirty thousand dollars ($30,000) shall extinguish all liability of the owner, bailee of an owner, or personal representative of a decedent for death or personal injury arising out of the accident ~~which~~ *that* exists~~,~~ pursuant to this chapter, and did not arise through the negligent or wrongful act or omission of the owner, bailee of an owner, or personal representative of a decedent nor through the relationship of principal and agent or master and servant.

SEC. 661. Section 23109 of the Vehicle Code is amended to read:

23109. (a) A person shall not engage in a motor vehicle speed contest on a highway. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limits, is not a speed contest.

(b) A person shall not aid or abet in any motor vehicle speed contest on any highway.

(c) A person shall not engage in ~~any~~ *a* motor vehicle exhibition of speed on a highway, and ~~no~~ *a* person shall *not* aid or abet in a motor vehicle exhibition of speed on any highway.

(d) A person shall not, for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition

upon a highway, in any manner obstruct or place a barricade or obstruction or assist or participate in placing a barricade or obstruction upon any highway.

(e) (1) A person convicted of a violation of subdivision (a) shall be punished by imprisonment in a county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000), or by both that fine and imprisonment. That person shall also be required to perform 40 hours of community service. The court may order the privilege to operate a motor vehicle suspended for 90 days to six months, as provided in paragraph (8) of subdivision (a) of Section 13352. The person's privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(2) If a person is convicted of a violation of subdivision (a) and that violation proximately causes bodily injury to a person other than the driver, the person convicted ~~is punishable~~ *shall be punished* by imprisonment in a county jail for not less than 30 days nor more than six months or by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or by both ~~the~~ *that* fine and imprisonment.

(f) (1) If a person is convicted of a violation of subdivision (a) for an offense that occurred within five years of the date of a prior offense that resulted in a conviction of a violation of subdivision (a), that person shall be punished by imprisonment in a county jail for not less than four days nor more than six months, and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(2) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than 30 days nor more than six months and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(3) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes serious bodily injury, as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, to a person other than the driver, a person convicted of that second violation shall be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(4) The court shall order the privilege *to operate a motor vehicle* of a person convicted under paragraph (1), (2), or (3)~~, to operate a motor vehicle~~ suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352. In lieu of the suspension, the person's privilege to operate a motor vehicle may be restricted for six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. ~~This~~

(5) This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to ~~any~~ *a* person ~~punishable~~ *subject to punishment* under subdivision (f), in addition to ~~the provisions of~~ subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in a county jail for not less than 48 hours nor more than six months. The court shall order the person's privilege to operate a motor vehicle to be suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352 or restricted pursuant to subdivision (f).

(h) If a person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(i) ~~Any~~ *A* person who violates subdivision (b), (c), or (d) ~~of this section~~ shall upon conviction ~~thereof~~ *of that violation* be punished by imprisonment in a county jail for not more than 90 days ~~or~~, by a fine of not more than five hundred dollars ($500), or by both that fine and imprisonment.

(j) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court shall clearly mark the restriction and the dates of the restriction on that person's driver's license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles shall place that restriction in the person's records in the Department of Motor Vehicles and enter the restriction on ~~any~~ *a* license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court may order that ~~any~~ *a* person convicted under this section, who is to be punished by imprisonment in a county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(*l*) This section shall be known and may be cited as the Louis Friend Memorial Act.

SEC. 662. Section 24011.3 of the Vehicle Code is amended to read:

24011.3. (a) Every manufacturer or importer of new passenger vehicles for sale or lease in this state, shall affix to a window or the windshield of the vehicle a notice with either of the following statements, whichever is appropriate:

(1) "This vehicle is equipped with bumpers that can withstand an impact of 2.5 miles per hour with no damage to the vehicle's body and safety systems, although the bumper and related components may sustain damage. The bumper system on this vehicle conforms to the current federal bumper standard of 2.5 miles per hour. "

(2) "This vehicle is equipped with a front bumper of a type that has been tested at an impact speed of (here specify the appropriate number) miles per hour, and a rear bumper of a type that has been tested at an impact speed of (here specify the appropriate number) miles per hour, resulting in no damage to the vehicle's body and safety systems and minimal damage to the bumper and attachment hardware. 'Minimal damage to the bumper' means minor cosmetic damage that can be repaired with the use of common repair materials and without replacing any parts. The stronger the bumper, the less likely the vehicle will require repair after a low-speed collision. This vehicle exceeds the current federal bumper standard of 2.5 miles per hour."

(b) The impact speed required to be specified in the notice pursuant to paragraph (2) of subdivision (a) is the maximum speed of impact upon the bumper of the vehicle at which the vehicle sustains no damage to the body and safety systems and only minimal damage to the bumper when subjected to the fixed barrier and pendulum impact tests, and when subjected to the corner impact test at not less than 60 percent of that maximum speed, conducted pursuant to Part 581 of Title 49 of the Code of Federal Regulations.

(c) (1) ~~Any~~ *A* manufacturer who willfully fails to affix the notice required by subdivision (a), or willfully misstates any information in the notice, is guilty of a misdemeanor ~~and is~~, *which shall be* punishable by a fine of not more ~~the~~ *than* five hundred dollars ($500). Each failure or misstatement is a separate offense.

(2) ~~Any~~ *A* person who willfully defaces, alters, or removes the notice required by subdivision (a) prior to *the* delivery of the vehicle, to which the notice is required to be affixed, to the registered owner or lessee is guilty of a misdemeanor ~~and is~~, *which shall be* punishable by a fine of not more than five hundred dollars ($500). Each willful defacement, alteration, or removal is a separate offense.

(d) For purposes of this section*, the following terms have the following meanings*:

(1) "Manufacturer" is any person engaged in the manufacture or assembly of new passenger vehicles for distribution or sale, and includes an importer of new passenger vehicles for distribution or sale and any person who acts for, or is under the control of, a manufacturer in connection with the distribution or sale of new passenger vehicles.

(2) "Passenger vehicle" means, notwithstanding Section 465, a motor vehicle subject to impact testing conducted pursuant to Part 581 of Title 49 of the Code of Federal Regulations.

(3) "No damage" means that, when a passenger vehicle is subjected to impact testing, conducted pursuant to the conditions and test procedures of Sections 581.6 and 581.7 of Part 581 of Title 49 of the Code of Federal Regulations, the vehicle sustains no damage to the body and safety systems.

(4) For purposes of paragraph (2) of subdivision (a) and subdivision (b), "minimal damage to the bumper and attachment

hardware" means damage that can be repaired with the use of common repair materials and without replacing any parts. In addition, not later than 30 minutes after completion of each pendulum or barrier impact test, the bumper face bar shall have no permanent deviation greater than three-quarters of one inch from its original contour and position relative to the vehicle frame and no permanent deviation greater than three-eighths of one inch from its original contour on areas of contact with the barrier face or impact ridge of the pendulum test device, measured from a straight line connecting the bumper contours adjoining the contact area.

(e) The notice required by this section may be included in any notice or label required by federal law to be affixed to a window or windshield of the vehicle.

SEC. 663. Section 27360 of the Vehicle Code is amended to read:

27360. (a) A parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, may not permit his or her child or ward to be transported upon a highway in the motor vehicle without properly securing the child or ward in a rear seat in a child passenger restraint system meeting applicable federal motor vehicle safety standards, unless the child or ward is one of the following:

(1) Six years of age or older.

(2) Sixty pounds or more.

(b) (1) A driver may not transport on a highway a child in a motor vehicle, as defined in Section 27315, without properly securing the child in a rear seat in a child passenger restraint system meeting applicable federal motor vehicle safety standards, unless the child is one of the following:

(A) Six years of age or older.

(B) Sixty pounds or more.

(2) This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) For purposes of subdivisions (a) and (b), and except as provided in paragraph (2), a child or ward under the age of six years who weighs less than 60 pounds may ride in the front seat of a motor vehicle, if properly secured in a child passenger

restraint system that meets applicable federal motor vehicle safety standards, under any of the following circumstances:

(A) There is no rear seat.

(B) The rear seats are side-facing jump seats.

(C) The rear seats are rear-facing seats.

(D) The child passenger restraint system cannot be installed properly in the rear seat.

(E) All rear seats are already occupied by children under the age of 12 years.

(F) Medical reasons necessitate that the child or ward not ride in the rear seat. The court may require satisfactory proof of the child's medical condition.

(2) A child or ward may not ride in the front seat of a motor vehicle with an active passenger airbag if the child or ward is one of the following:

(A) Under one year of age.

(B) Less than 20 pounds.

(C) Riding in a rear-facing child passenger restraint system.

(d) (1) (A) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead, refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of a child passenger restraint system for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

(B) The court may require a defendant described under this section to attend an education program that includes demonstration of proper installation and use of a child passenger restraint system and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(2) *(A)* A second or subsequent offense under this section is punishable by a fine of two hundred fifty dollars ($250), no part of which may be waived by the court, except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead, refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

(B) The court may require a defendant described under this section to attend an education program that includes demonstration of proper installation and use of a child passenger restraint system and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(e) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) *(A)* Sixty percent to health departments of local jurisdictions where the violation occurred, to be used for a community education program that includes, but is not limited to, demonstration of the installation of a child passenger restraint system for children of all ages and also assists an economically disadvantaged family in obtaining a restraint system through a low-cost purchase or loan. The county or city health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the court system to facilitate the transfer of funds to the program. The county or city may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this section, a person shall attend an education

program that includes demonstration of proper installation and use of a child passenger restraint system.

(B) As the proceeds from fines become available, county or city health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county or city shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, county clinics, prenatal clinics, women, infants, and children programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county or city for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

SEC. 664. Section 29008 of the Vehicle Code is amended to read:

29008. ~~The requirements of Section~~ *Sections* 29004 and 29005 shall not apply to trailers or dollies used to support booms attached to truck cranes if the following conditions are met:

(a) The trailer or dolly is connected to the boom by a pin, coupling device, or fifth wheel assembly.

(b) The trailer is secured to the boom with a chain, cable, or equivalent device of sufficient strength to control the trailer or dolly in case of failure of the connection consisting of a pin, coupling device, or fifth wheel assembly.

SEC. 665. Section 35106 of the Vehicle Code is amended to read:

35106. (a) Motor coaches or buses may have a maximum width not exceeding 102 inches.

(b) Notwithstanding subdivision (a), motor coaches or buses operated under the jurisdiction of the Public Utilities Commission in urban or suburban service may have a maximum outside width not exceeding 104 inches, when approved by order of the Public Utilities Commission for use on routes designated

by it. Motor coaches or buses operated by common carriers of passengers for hire in urban or suburban service and not under the jurisdiction of the Public Utilities Commission may have a maximum outside width not exceeding 104 inches.

~~(c) This section shall become operative on January 1, 2002. (Amended by Stats. 1982, Ch. 827, Sec. 5. Effective September 10, 1982.)~~

SEC. 666. Section 40512 of the Vehicle Code is amended to read:

40512. (a) (1) Except as specified in paragraph (2), if at the time the case is called for arraignment before the magistrate the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited and may, in his or her discretion, order that no further proceedings be had in the case, unless the defendant has been charged with a violation of Section 23111 or 23112, or subdivision (a) of Section 23113, and he or she has been previously convicted of the same offense, except if the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in the case.

(2) If the defendant has posted surety bail and the magistrate has ordered the bail forfeited and that no further proceedings shall be had in the case, the bail retains the right to obtain relief from the forfeiture as provided in Section 1305 of the Penal Code if the amount of the bond, money, or property deposited exceeds seven hundred dollars ($700).

(b) Upon the making of the order that no further proceedings shall be had, all sums deposited as bail shall ~~forthwith~~ be paid into the city or county treasury, as the case may be.

(c) If a guaranteed traffic arrest bail bond certificate has been filed, the clerk of the court shall bill the issuer for the amount of bail fixed by the uniform countywide schedule of bail required under ~~subdivisions (b) and (d)~~ *subdivision (c)* of Section ~~1296~~ *1296b* of the Penal Code.

(d) Upon presentation by a court of the bill for a fine or bail assessed against an individual covered by a guaranteed traffic arrest bail bond certificate, the issuer shall pay to the court the amount of the fine or forfeited bail ~~which~~ *that* is within the maximum amount guaranteed by the terms of the certificate.

(e) The court shall return the guaranteed traffic arrest bail bond certificate to the issuer upon receipt of payment in accordance with subdivision (d).

SEC. 667. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in subdivision (e) of Section 21464, or Section 42000.5, 42001.1, 42001.2, 42001.3, 42001.5, 42001.7, 42001.8, 42001.9, 42001.11, 42001.12, 42001.13, 42001.14, 42001.15, *or* 42001.16, or subdivision (a) of Section 42001.17, Section 42001.18, or Section 42001.20, or subdivision (b), (c), or (d) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction ~~which~~ *that* resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions ~~which~~ *that* resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as ~~they affect~~ *that violation affects* failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in ~~the~~ *a* county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in ~~the~~ *a* county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in ~~the~~ *a* county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(d) A person convicted of a violation of subdivision (a) or (b) of Section 27150.3 shall be punished by a fine of two hundred fifty dollars ($250), and a person convicted of a violation of subdivision (c) of Section 27150.3 shall be punished by a fine of one thousand dollars ($1,000).

(e) Notwithstanding any other provision of law, any local public entity that employs peace officers, as designated under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, the California State University, and the University of California may, by ordinance or resolution, establish a schedule of fines applicable to infractions committed by bicyclists within its jurisdiction. Any fine, including all penalty assessments and court costs, established pursuant to this subdivision shall not exceed the maximum fine, including penalty ~~assessment~~ *assessments* and court costs, otherwise authorized by this code for that violation. If a bicycle fine schedule is adopted, it shall be used by the courts having jurisdiction over the area within which the ordinance or resolution is applicable instead of the fines, including penalty assessments and court costs, otherwise applicable under this code.

SEC. 668. Section 359 of the Water Code is amended to read:

359. *(a)* Notwithstanding any other provision of law ~~which~~ *that* requires an election for the purpose of authorizing a contract with the United States, or for incurring the obligation to repay loans from the United States, and except as otherwise limited or prohibited by the *California* Constitution ~~of the State of California~~, a public water agency ~~may~~, as an alternative procedure to submitting the proposal to an election, upon affirmative vote of four-fifths of the members of the governing body thereof, *may* apply for, accept, provide for the repayment together with interest thereon, and use funds made available by the federal government pursuant to Public Law 95-18, pursuant to any other federal act subsequently enacted during 1977 ~~which~~ *that* specifically provides emergency drought relief financing, or pursuant to existing federal relief programs receiving budget augmentations in 1977 for drought assistance, and may enter into ~~such~~ contracts ~~as~~ *that* are required to obtain ~~such~~ *those* federal funds pursuant to the provisions of ~~such~~ *those* federal acts~~;~~ ~~provided~~ *if* the following conditions exist:

~~(a)~~

(1) The project is undertaken by *a* state, regional, or local governmental agency.

~~(b)~~

(2) As a result of the severe drought now existing in many parts of the state, the agency has insufficient water supply needed to meet necessary agricultural, domestic, industrial, recreational, and fish and wildlife needs within the service area or area of jurisdiction of the agency.

~~(c)~~

(3) The project will develop or conserve water before October 31, 1978, and will assist in mitigating the impacts of the drought.

~~(d)~~

(4) The agency affirms that it will comply, if applicable, with Sections 1602, 1603, and 1605 of the Fish and Game Code.

~~(e)~~

(5) The project will be completed on or before the completion date, if any, required under the federal act providing the funding, but not later than March 1, 1978.

(b) Any obligation to repay loans shall be expressly limited to revenues of the system improved by the proceeds of the contract.

(c) No application for ~~such~~ federal funds pursuant to ~~the authority of~~ this section shall be made on or after March 1, 1978.

(d) Notwithstanding the provisions of this section, a public agency shall not be exempt from any provision of law ~~which~~ *that* requires the submission of ~~such~~ *a* proposal to an election if a petition requesting such an election signed by 10 percent of the registered voters within the public agency is presented to the governing board within 30 days following the submission of an application for ~~such~~ federal funds.

(e) Notwithstanding the provisions of this section, a public water agency ~~which~~ *that* applied for federal funds for a project ~~prior to~~ *before* January 1, 1978, may make application to the Director of the Drought Emergency Task Force for extension of the required completion date specified in *paragraph (5) of* subdivision ~~(e)~~ *(b)*. Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in *paragraph (5) of* subdivision ~~(e)~~ *(b)* to a date not later than September 30, 1978, if the director finds that the project has been delayed by

factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

(f) For the purposes of this section, "public water agency" means a city, district, agency, authority, or any other political subdivision of the state, except the state, ~~which~~ *that* distributes water to the inhabitants thereof, ~~which~~ is otherwise authorized by law to enter into contracts or agreements with the federal government for a water supply or for financing facilities for a water supply, and ~~which~~ is otherwise required by law to submit ~~such~~ *those* agreements or contracts or any other project involving long-term debt to an election within ~~such~~ *that* public water agency.

SEC. 669. Section 5003 of the Water Code is amended to read:

5003. No prescriptive right ~~which~~ *that* might otherwise accrue to extract ground water shall arise or accrue to, nor shall any statute of limitations operate in regard to ~~such~~ *the* ground water in the four counties ~~or any of them~~ after the year 1956 in favor of any person required to file ~~such~~ *a* notice of extraction and diversion of water, until ~~such~~ *that* person ~~shall file~~ *files* with the board the first "Notice of Extraction and Diversion of Water" substantially in the form mentioned in Section 5002~~; and as~~. *As* to each person who fails to file ~~such~~ *that* notice by the end of the year *in* 1957, it shall be deemed for the period from that time until the first notice of ~~such~~ *the* person is filed, that no claim of right to the extraction of ground water from any ~~such~~ source in the four counties has been made by ~~such~~ *the* person, and that water ~~so~~ extracted by ~~such~~ *the* person from ~~such~~ *the* ground water source during ~~such~~ *that* period has not been devoted to or used for any beneficial use. The beneficial use of water from any ground water source within the four counties in any year by ~~such~~ *the* person shall be deemed not to exceed the quantity reported in the notice filed for ~~such~~ *that* year.

SEC. 670. Section 8617.5 of the Water Code is amended to read:

8617.5. *(a)* In connection with any work done on projects authorized by the board in the repair or reconstruction of levees

or other flood control works completed ~~prior to~~ *before* June 30, 1957, the board may provide for and pay the cost of the relocation, reconstruction, or replacement of improvements, structures, or utilities ~~which~~ *that* have actually existed and been in use for over 20 years, which ~~have~~ *has* been rendered necessary by ~~such~~ *the* work, unless ~~such~~ payment would be contrary to ~~the provisions of~~ any written authorization or agreement under which the improvement, structure, or utility was constructed or maintained.

(b) This section shall not apply to the relocation, reconstruction, or replacement of improvements, structures, or utilities ~~where such~~ *if the* work has been financed, in whole or in part, with funds under the Flood Relief Law of 1956 ~~(Sections 54150 to 54161, inclusive,~~ *(former Article 6 (commencing with Section 54150) of Chapter 5 of Part 1 of Division 2 of Title 5 of the* Government Code) or Public Law ~~875, Eighty-first Congress, Second Session~~ *81-875*.

SEC. 671. Section 10631 of the Water Code is amended to read:

10631. A plan shall be adopted in accordance with this chapter and shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments described in subdivision (a). If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information shall be included in the plan:

(1) A copy of any groundwater management plan adopted by the urban water supplier, including plans adopted pursuant to Part 2.75 (commencing with Section 10750), or any other specific authorization for groundwater management.

(2) A description of any groundwater basin or basins from which the urban water supplier pumps groundwater. For those

basins for which a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the urban water supplier has the legal right to pump under the order or decree. For basins that have not been adjudicated, information as to whether the department has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current official departmental bulletin that characterizes the condition of the groundwater basin, and a detailed description of the efforts being undertaken by the urban water supplier to eliminate the long-term overdraft condition.

(3) A detailed description and analysis of the location, amount, and sufficiency of groundwater pumped by the urban water supplier for the past five years. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(4) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the urban water supplier. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(c) *(1)* Describe the reliability of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:

~~(1)~~

(A) An average water year.

~~(2)~~

(B) A single dry water year.

~~(3)~~

(C) Multiple dry water years.

(2) For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to supplement or replace that source with alternative sources or water demand management measures, to the extent practicable.

(d) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(e) (1) Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, identifying the uses among water use sectors, including, but not necessarily limited to, all of the following uses:

(A) Single-family residential.

(B) Multifamily.

(C) Commercial.

(D) Industrial.

(E) Institutional and governmental.

(F) Landscape.

(G) Sales to other agencies.

(H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.

(I) Agricultural.

(2) The water use projections shall be in the same five-year increments described in subdivision (a).

(f) Provide a description of the supplier's water demand management measures. This description shall include all of the following:

(1) A description of each water demand management measure that is currently being implemented, or scheduled for implementation, including the steps necessary to implement any proposed measures, including, but not limited to, all of the following:

(A) Water survey programs for single-family residential and multifamily residential customers.

(B) Residential plumbing retrofit.

(C) System water audits, leak detection, and repair.

(D) Metering with commodity rates for all new connections and retrofit of existing connections.

(E) Large landscape conservation programs and incentives.

(F) High-efficiency washing machine rebate programs.

(G) Public information programs.

(H) School education programs.

(I) Conservation programs for commercial, industrial, and institutional accounts.

(J) Wholesale agency programs.

(K) Conservation pricing.

(L) Water conservation coordinator.

(M) Water waste prohibition.

(N) Residential ultra-low-flush toilet replacement programs.

(2) A schedule of implementation for all water demand management measures proposed or described in the plan.

(3) A description of the methods, if any, that the supplier will use to evaluate the effectiveness of water demand management measures implemented or described under the plan.

(4) An estimate, if available, of existing conservation savings on water use within the supplier's service area, and the effect of the savings on the supplier's ability to further reduce demand.

(g) An evaluation of each water demand management measure listed in paragraph (1) of subdivision (f) that is not currently being implemented or scheduled for implementation. In the course of the evaluation, first consideration shall be given to water demand management measures, or combination of measures, that offer lower incremental costs than expanded or additional water supplies. This evaluation shall do all of the following:

(1) Take into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

(2) Include a cost-benefit analysis, identifying total benefits and total costs.

(3) Include a description of funding available to implement any planned water supply project that would provide water at a higher unit cost.

(4) Include a description of the water supplier's legal authority to implement the measure and efforts to work with other relevant agencies to ensure the implementation of the measure and to share the cost of implementation.

(h) Include a description of all water supply projects and water supply programs that may be undertaken by the urban water supplier to meet the total projected water use as established pursuant to subdivision (a) of Section 10635. The urban water supplier shall include a detailed description of expected future projects and programs, other than the demand management programs identified pursuant to paragraph (1) of subdivision (f), that the urban water supplier may implement to increase the amount of the water supply available to the urban water supplier in average, single-dry, and multiple-dry water years. The

description shall identify specific projects and include a description of the increase in water supply that is expected to be available from each project. The description shall include an estimate with regard to the implementation timeline for each project or program.

(i) Describe the opportunities for development of desalinated water, including, but not limited to, ocean water, brackish water, and groundwater, as a long-term supply.

(j) Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the "Memorandum of Understanding Regarding Urban Water Conservation in California," dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).

(k) Urban water suppliers that rely upon a wholesale agency for a source of water~~,~~ shall provide the wholesale agency with water use projections from that agency for that source of water in five-year increments to 20 years or as far as data is available. The wholesale agency shall provide information to the urban water supplier for inclusion in the urban water supplier's plan that identifies and quantifies, to the extent practicable, the existing and planned sources of water as required by subdivision (b), available from the wholesale agency to the urban water supplier over the same five-year increments, and during various water-year types in accordance with subdivision (c). An urban water supplier may rely upon water supply information provided by the wholesale agency in fulfilling the plan informational requirements of subdivisions (b) and (c).

SEC. 672. Section 12625 of the Water Code is amended to read:

12625. In determining the cost of any project, damage to fish and ~~wild life~~ *wildlife* that will probably result ~~must~~ *shall* be included in the amount of the cost.

SEC. 673. Section 12879.2 of the Water Code is amended to read:

12879.2. As used in this chapter, the following terms have the following meanings:

(a) “Committee” means the Water Conservation Finance Committee created pursuant to *Section* 12879.9.

(b) “Department” means the Department of Water Resources.

(c) “Fund” means the 1988 Water Conservation Fund created pursuant to *Section* 12879.3.

(d) “Local agency” means any city, county, city and county, district, joint powers authority, or other political subdivision of the state involved in water management.

(e) “Eligible project” means any dam, reservoir, or other construction or improvement by a local agency for the diversion, storage, or primary distribution of water, or facilities for groundwater extraction, primarily for domestic, municipal, agricultural, industrial, recreation, fish and wildlife enhancement, flood control, or power production purposes. ~~An eligible project~~ *“Eligible project”* also means any reservoir, pipeline, or other construction or improvement by a local agency for the storage or distribution of reclaimed water for reuse.

(f) *(1)* “Groundwater recharge facilities” means land and facilities for artificial groundwater recharge through methods ~~which~~ *that* include, but are not limited to, either percolation using basins, pits, ditches, and furrows, modified streambed, flooding, and well injection, or in-lieu recharge. “Groundwater recharge facilities” also means capital outlay expenditures to expand, renovate, or restructure land and facilities already in use for the purpose of groundwater recharge.

(2) Groundwater recharge facilities may include either of the following:

~~(1)~~

(A) Instream facilities for regulation of water levels, but not regulation of streamflow by storage to accomplish diversion from the waterway.

~~(2)~~

(B) Conveyance facilities to the recharge site, including devices for flow regulation and measurement of recharge waters.

(3) Any part or all of the project facilities, including land under the facilities, may consist of separable features, or an appropriate share of multipurpose features of a larger system, or both.

(g) “In-lieu recharge” means accomplishing increased storage of groundwater by providing surface water to a user who relies

on groundwater as a primary supply, in order to accomplish groundwater storage through the direct use of that surface water in lieu of pumping groundwater. In-lieu recharge shall be used rather than continuing pumping while artificially recharging with surface waters. However, bond proceeds shall not be used to purchase surface waters for use in lieu of pumping groundwater.

(h) "Voluntary cost-effective capital outlay water conservation programs" means those feasible capital outlay measures to improve the efficiency of water use through benefits ~~which~~ *that* exceed their costs. The programs include, but are not limited to, lining or piping of ditches; improvements in water distribution system controls such as automated canal control, construction of small reservoirs within distribution systems ~~which~~ *that* conserve water that already has been captured for reuse, and related physical improvements; tailwater pumpback recovery systems to reduce leakage; and capital changes in ~~onfarm~~ *on-farm* irrigation systems ~~which~~ *that* improve irrigation efficiency, such as sprinkler or subsurface drip systems. In each case, the department shall determine that there is a net savings of water as a result of each proposed project and that the project is cost-effective.

SEC. 674. Section 12899.6 of the Water Code is amended to read:

12899.6. (a) Unless a person is otherwise authorized, by permit or agreement, to do so, it is unlawful for any person to do any of the following acts:

(1) Drain water, or permit water to be drained, from the person's lands onto the State Water Resources Development System right-of-way by any means, which results in damage to the system or the department's right-of-way, except where the water naturally drains onto the department's right-of-way.

(2) Obstruct any natural watercourse in a manner that does any of the following:

(A) Prevents, impedes, or restricts the natural flow of waters from any portion of the department's right-of-way into and through the watercourse or State Water Resources Development System cross drainage structures, unless other adequate and proper drainage is provided.

(B) Causes waters to be impounded within the department's right-of-way that damages the State Water Resources Development System or the department's right-of-way, except

where the water naturally drains onto the department's right-of-way.

(C) Causes interference with, or damages or makes hazardous the operation, maintenance, and rehabilitation of, the State Water Resources Development System.

(3) Stores or distributes water for any purpose so as to permit the water to overflow onto, causing damage to, or to obstruct or damage any portion of, the State Water Resources Development System or the department's right-of-way.

(b) When notice is given by the department, in the manner provided in Section 12899.5, to any person permitting a condition to exist, as described in subdivision (a), the person shall immediately cease and discontinue the diversion of waters or shall discontinue and prevent the drainage, seepage, or overflow and shall repair, or pay for the repair~~,~~ of, any damage to the State Water Resources Development System or the department's right-of-way. The person to whom the notice is provided may challenge, administratively in accordance with regulations adopted pursuant to Section 12899.9, or in a court of competent jurisdiction, the propriety of the determination by the department.

(c) If any person is notified pursuant to subdivision ~~(d)~~ *(b)* and fails, neglects, or refuses to cease and discontinue the diversion, drainage, seepage, or overflow of the waters or to make or pay for the repairs, the department may make repairs and perform work as it determines necessary to prevent the further drainage, diversion, overflow, or seepage of the waters.

(d) The department may recover in an action at law, in any court of competent jurisdiction, the amount expended for those repairs and work, and in addition, the sum of one thousand dollars ($1,000) for each day the drainage, diversion, overflow, or seepage of the waters is permitted to continue, after the service of the notice in the manner specified in this chapter, together with the costs and expenses, including ~~attorneys~~ *attorney's* fees, incurred in the action.

SEC. 675. Section 12899.7 of the Water Code is amended to read:

12899.7. Any person who by any means willfully or negligently injures or damages any feature of the State Water Resources Development System or the department's right-of-way

is liable for necessary repairs, and the department may recover in an action at law the amount expended for the repairs, together with the costs and expenses, including ~~attorneys~~ *attorney's* fees, incurred in that action.

SEC. 676. Section 12929.12 of the Water Code is amended to read:

12929.12. (a) It is the intent of the Legislature that sixty-five million dollars ~~($65,000,00)~~ *($65,000,000)* of the funds ~~which~~ *that* may be transferred, pursuant to paragraph (3) of subdivision (b) of Section 12937, to the California Water Fund from the California Water Resources Development Bond Fund, shall be appropriated to the Environmental Water Fund. It is the intent of the Legislature, subject to subdivision (b), to appropriate to the Environmental Water Fund one million dollars ($1,000,000) in the 1990–91 fiscal year and eight million dollars ($8,000,000) per year in fiscal years 1991–92 to 1998–99, inclusive. However, the director, in consultation with the Department of Finance, may accelerate payments to the California Water Fund for appropriation to the Environmental Water Fund if the director deems it appropriate to do so.

(b) It is the further intent of the Legislature that if the director determines that all or any portion of the amount ~~which~~ *that* would otherwise be appropriated in any fiscal year to the Environmental Water Fund in accordance with subdivision (a), or to the Delta Flood Protection Fund pursuant to Section 12303, is required for continued construction of the State Water Resources Development System pursuant to Section 12938, the entire amount ~~which~~ *that* would otherwise be appropriated to the Environmental Fund for that fiscal year shall be reduced to zero before any reduction is made in the amount to be appropriated to the Delta Flood Protection Fund. It is also the intent of the Legislature that any reduction in funds appropriated to the Environmental Water Fund and the Delta Flood Protection Fund pursuant to this subdivision be made up from funds transferred to the California Water Fund pursuant to paragraph (3) of subdivision (b) of Section 12937 in subsequent fiscal years.

SEC. 677. Section 13385.1 of the Water Code is amended to read:

13385.1. (a) (1) For the purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a

discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

(2) Paragraph (1) applies only to violations that occur on or after January 1, 2004.

(b) (1) Notwithstanding any other provision of law, moneys collected pursuant to this section for a failure to timely file a report, as described in subdivision (a), shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(2) The funds described in paragraph (1) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in responding to significant water pollution problems.

(c) For the purposes of this section, paragraph (2) of subdivision (f) of Section 13385, and subdivisions (h), (i), and (j) of Section 13385 only, "effluent limitation" means a numeric *restriction* or *a* numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for those purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.

SEC. 678. Section 13465 of the Water Code is amended to read:

13465. Notwithstanding Sections 13458 and 13459, the committee may ~~proscribe~~ *prescribe* further terms and conditions for loan contracts to authorize a deferment on payment of all or part of the principal.

SEC. 679. Section 13611 of the Water Code is amended to read:

13611. (a) The notification required by Section 13611.5 does not apply to a discharge that is in compliance with this division, or to a water agency conveying water in compliance with all state and federal drinking water standards.

(b) Any person who fails to provide the notifications required by Section 13271 relating to perchlorate or by Section 13611.5 may be civilly liable in accordance with subdivision (c).

(c) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation described in subdivision (b) in an amount that does not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section ~~11350)~~ *13350)* and Article 6 (commencing with Section 13360) of Chapter 5 for a violation described in subdivision (b) in an amount that is not less than five hundred dollars ($500), ~~or~~ *nor* more than five thousand dollars ($5,000), for each day in which the violation occurs.

(d) Notwithstanding Section 13441, all ~~money~~ *moneys* collected by the state pursuant to this section shall be available to the state board upon appropriation by the Legislature.

SEC. 680. Section 13999.8 of the Water Code is amended to read:

13999.8. (a) The sum of two hundred fifty million dollars ($250,000,000) of the ~~money~~ *moneys* in the fund shall be deposited in the Clean Water Construction Grant Account and is appropriated for grants and loans to municipalities to aid in construction of eligible projects and the purposes set forth in this section.

(b) If the federal Clean Water Act authorizes a federal loan program for providing assistance for construction of treatment works, which requires state matching funds, the board may establish a State Water Pollution Control Revolving Fund to provide loans in accordance with the federal Clean Water Act. The board, with the approval of the committee, may transfer funds from the Clean Water Construction Grant Account to the revolving fund for the purposes of meeting federal requirements for state matching funds.

(c) Any contract entered into pursuant to this section may include ~~such~~ *any* provisions ~~as may be determined by~~ *that* the board *determines*, provided that any contract concerning an eligible project shall include, in substance, all of the following provisions:

(1) An estimate of the reasonable cost of the eligible project.

(2) An agreement by the board to pay to the municipality, during the progress of construction or following completion of construction as agreed upon by the parties, an amount ~~which~~ *that* equals at least 12½ percent of the eligible project cost determined pursuant to federal and state laws and regulations.

(3) An agreement by the municipality to proceed expeditiously with, and complete, the eligible project; commence operation of the treatment works upon completion and to properly operate and maintain the works in accordance with applicable provisions of law; apply for and make reasonable efforts to secure federal assistance for the eligible project; secure the approval of the board before applying for federal assistance in order to maximize the assistance received in the state; and provide for payment of the municipality's share of the cost of the eligible project.

(d) The board may, with the approval of the committee, transfer moneys in the Clean Water Construction Grant Account to the State Water Quality Control Fund, to be made available for loans to public agencies pursuant to Chapter 6 (commencing with Section 13400).

(e) Grants may be made pursuant to this section to reimburse municipalities for the state share of construction costs for eligible projects ~~which~~ *that* received federal assistance, but ~~which~~ *that* did not receive an appropriate state grant due solely to depletion of the State Clean Water and Water Conservation Fund created pursuant to the Clean Water and Water Conservation Bond Law of 1978 (Chapter 12.5 (commencing with Section 13955)). Eligibility for reimbursement under this section is limited to the actual construction capital costs incurred.

(f) To the extent funds are available, if the federal share of construction funding under Title II of the federal Clean Water Act is reduced below 75 percent, ~~unicipalities~~ *municipalities* otherwise eligible for a grant under this section shall also be entitled to a loan from the Clean Water Construction Grant Account of up to 12½ percent of the eligible project cost.

(g) To the extent funds are available, if the federal Clean Water Act authorizes a federal loan program for providing assistance for construction of treatment works, the board may make those loans in accordance with the federal Clean Water Act

and state law. The Legislature may enact legislation that it deems necessary to implement the state loan program.

(h) Notwithstanding any other provision of law, and to the extent funds are available, if federal funding under Title II of the federal Clean Water Act ceases, municipalities shall only be entitled to a loan from the Clean Water Construction Grant Account of 25 percent of the eligible project cost.

(i) All loans pursuant to this section are subject to all of the following provisions:

(1) Municipalities seeking a loan shall demonstrate, to the satisfaction of the board, that an adequate opportunity for public participation regarding the loan has been provided.

(2) Any election held with respect to the loan shall include the entire municipality except where the municipality proposes to accept the loan on behalf of a specified portion, or portions, of the municipality, in which case the referendum shall be held in that portion or portions of the municipality only.

(3) Any loan made pursuant to this section shall be up to 25 years with an interest rate set annually by the board at 50 percent of the average interest rate paid by the state on general obligation bonds for the calendar year immediately preceding the year in which the loan agreement is executed.

(4) The first thirty million dollars ($30,000,000) in principal and interest from loans made pursuant to this section shall be paid to the Water Reclamation Account. All remaining principal and interest from the loans shall be returned to the Clean Water Construction Grant Account for new obligations.

SEC. 681. Section 20527.11 of the Water Code is amended to read:

20527.11. *(a)* The Board of Directors of the Richvale Irrigation District may adopt a resolution that authorizes persons holding title to real property within the district, or their legal representative, to vote. Holders of title need not be residents of the district in order to qualify as voters. Each eligible voter shall be entitled to cast only one vote.

(b) The last equalized county assessment roll is conclusive evidence of ownership of the real property.

(c) (1) If land is owned in joint tenancy, tenancy in common, community property, or any other multiple ownership, the owners of the land shall designate, in writing, which one of the

owners is deemed the owner of the land for purposes of qualifying as a voter.

(2) The designation shall be made upon a form provided by the district, ~~and~~ shall be filed with the district at least 40 days prior to the election, and shall remain in effect until amended or revoked. No amendment or revocation may occur within the period of 39 days prior to any election.

(d) The district shall provide to the elections clerk a list of eligible voters pursuant to Section 10525 of the Elections Code at least 35 days prior to an election.

(e) The legal representative of a corporation or estate owning real property may vote on behalf of the corporation or estate.

(f) (1) Every voter, or his or her legal representative, may vote at any district election either in person or by a person appointed as his or her proxy.

(2) Voting by legal representatives and the appointment of a proxy shall be allowed in accordance with Sections 35005 and 35006 of the Water Code.

(g) Notwithstanding Section ~~21100 ,~~ *21100,* any eligible voter, as specified in this section, may be a member of the Board of Directors of the Richvale Irrigation District.

(h) (1) As used in this section, "legal representative" means an official of a corporation owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who is all of the following:

(A) Appointed under the laws of this state.

(B) Entitled to the possession of the estate's real property.

(C) Authorized by the appointing court to exercise the particular right, privilege, or immunity ~~which~~ *that* the legal representative seeks to exercise.

(2) As used in this section, "eligible voter" means a person who meets the requirements of Section 20527 or a person who is a holder of title to real property within the district.

(3) The Board of Directors of the Richvale Irrigation District may, not less than 120 days before the next general district election, abolish the divisions of the district for that election. The abolishment of the divisions shall be effective only for that general election, unless the question of abolishing the divisions is presented to the voters at that election and a majority of the votes

cast on that question are in favor of abolishing the divisions for future elections.

(i) (1) This section shall be operative as long as the district does not provide water, drainage services, electricity, flood control services, or sewage disposal services for domestic purposes for residents of the district.

(2) (A) This section shall become inoperative if the district commences to provide any of the services described in paragraph (1).

(B) The district shall notify the Secretary of State 30 days prior to commencing to provide any of the services described in paragraph (1). The notice required by this subparagraph shall state that it is being made pursuant to this subdivision.

SEC. 682. Section 23178 of the Water Code is amended to read:

23178. ~~The provisions of Article 4 of Chapter 2 of Part 5 of this division do~~ *Article 35 (commencing with Section 20560) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code does* not apply in *the* case of any contract between a district and the United States.

SEC. 683. Section 41027 of the Water Code is amended to read:

41027. (a) The board shall hold a public hearing to receive any testimony regarding the preliminary election roll. The hearing may be continued from time to time. Following the hearing and deliberations, the board shall make any changes to the preliminary election roll and shall adopt the election roll.

(b) If the preliminary election roll was prepared pursuant to paragraph (1) of subdivision (b) of Section 41026, the adopted election roll shall be deemed the final election roll.

(c) If the preliminary election roll was prepared pursuant to paragraph (2) of subdivision (b) of Section 41026, the secretary shall send the adopted election roll to the board of supervisors of the principal county. Upon receiving the adopted election roll, the board of supervisors of the principal county shall set the date, time, and place for a public hearing to receive any testimony regarding the adopted election roll. The board of supervisors shall publish a notice of its public hearing pursuant to Section 39057. At the hearing, the board of supervisors shall receive any testimony regarding the adopted election roll. The hearing may

be continued from time to time. Following the hearing and deliberations, the board of supervisors shall either approve or disapprove the adopted election roll. If the board of supervisors approves the adopted election roll, it shall send the final election roll to the board. If the board of supervisors disapproves the adopted election roll, the board of supervisors shall notify the board of its disapproval and may recommend changes to the adopted election roll for the board to consider. The district shall compensate the principal county for any costs incurred by the board of supervisors pursuant to this ~~article~~ *chapter*.

(d) The secretary shall certify and file the final election roll not later than the date of the first publication of the notice provided pursuant to Section 41308.

SEC. 684. Section 241.1 of the Welfare and Institutions Code is amended to read:

241.1. (a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court. These protocols shall require, which requirements shall not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation

with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies ~~which~~ *that* have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which a new petition should be filed to change the minor's status.

(c) Whenever a minor who is under the jurisdiction of the juvenile court of a county pursuant to Section 300, 601, or 602 is alleged to come within the description of Section 300, 601, or 602 by another county, the county probation department or child welfare services department in the county that has jurisdiction under Section 300, 601, or 602 and the county probation department or child welfare services department of the county alleging the minor to be within one of those sections shall initially determine which status will best serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court in which the petition is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. In making their recommendation to the juvenile court, the departments shall conduct an assessment consistent with the requirements of subdivision (b). Any other juvenile court having jurisdiction over the minor shall receive notice from the court in which the petition is filed within five calendar days of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(d) Except as provided in subdivision (e), nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

(e) Notwithstanding ~~the provisions of~~ subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services

department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. No juvenile court may order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into. This protocol shall include:

(1) A description of the process to be used to determine whether the child is eligible to be designated as a dual status child.

(2) A description of the procedure by which the probation department and the child welfare services department will assess the necessity for dual status for specified children and the process to make joint recommendations for the court's consideration prior to making a determination under this section. These recommendations shall ensure a seamless transition from wardship to dependency jurisdiction, as appropriate, so that services to the child are not disrupted upon termination of the wardship.

(3) A provision for ensuring communication between the judges who hear petitions concerning children for whom dependency jurisdiction has been suspended while they are within the jurisdiction of the juvenile court pursuant to Section 601 or 602. A judge may communicate by providing a copy of any reports filed pursuant to Section 727.2 concerning a ward to a court that has jurisdiction over dependency proceedings concerning the child.

(4) A plan to collect data in order to evaluate the protocol pursuant to Section 241.2.

(5) Counties that ~~excercise~~ *exercise* the option provided for in this subdivision shall adopt either an "on-hold" system as described in subparagraph (A) or a "lead court/lead agency" system as described in subparagraph (B). In no case shall there be any simultaneous or duplicative case management or services provided by both the county probation department and the child welfare services department. It is the intent of the Legislature that

judges, in cases in which more than one judge is involved, shall not issue conflicting orders.

(A) In counties in which an on-hold system is adopted, the dependency jurisdiction shall be suspended or put on hold while the child is subject to jurisdiction as a ward of the court. When it appears that termination of the court's jurisdiction, as established pursuant to Section 601 or 602, is likely and that reunification of the child with his or her parent or guardian would be detrimental to the child, the county probation department and the child welfare services department shall jointly assess and produce a recommendation for the court regarding whether the court's dependency jurisdiction shall be resumed.

(B) In counties in which a lead court/lead agency system is adopted, the protocol shall include a method for identifying which court or agency will be the lead court/lead agency. That court or agency shall be responsible for case management, conducting statutorily mandated court hearings, and submitting court reports.

SEC. 685. Section 319 of the Welfare and Institutions Code is amended to read:

319. (a) At the initial petition hearing, the court shall examine the child's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the child, the child's parents or guardians, the petitioner, or their counsel desires to present. The court may examine the child, as provided in Section 350.

(b) The social worker shall report to the court on the reasons why the child has been removed from the parent's physical custody~~:~~, the need, if any, for continued detention~~:~~, the available services and the referral methods to those services that could facilitate the return of the child to the custody of the child's parents or guardians~~:~~, and whether there are any relatives who are able and willing to take temporary physical custody of the child. The court shall order the release of the child from custody unless a prima facie showing has been made that the child comes within Section 300, the court finds that continuance in the parent's or guardian's home is contrary to the child's welfare, and any of the following circumstances exist:

(1) There is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there

are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the parent's or guardian's physical custody.

(2) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court.

(3) The child has left a placement in which he or she was placed by the juvenile court.

(4) The child indicates an unwillingness to return home, if the child has been physically or sexually abused by a person residing in the home.

(c) If the matter is continued pursuant to Section 322 or for any other reason, the court shall find that the continuance of the child in the parent's or guardian's home is contrary to the child's welfare at the initial petition hearing or order the release of the child from custody.

(d) (1) The court shall also make a determination on the record, referencing the social worker's report or other evidence relied upon, as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from his or her home, pursuant to subdivision (b) of Section 306, and whether there are available services that would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) and Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 would have eliminated the need to take temporary custody of the child or would prevent the need for further detention.

(2) If the child can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the child with his or her parent or guardian and

order that the services shall be provided. If the child cannot be returned to the physical custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child, and has been assessed pursuant to paragraph (1) of subdivision (d) of Section 309.

(e) Whenever a court orders a child detained, the court shall state the facts on which the decision is based, ~~shall~~ specify why the initial removal was necessary, ~~shall~~ reference the social worker's report or other evidence relied upon to make its determination whether continuance in the home of the parent or legal guardian ~~in~~ *is* contrary to the child's welfare, ~~shall~~ order temporary placement and care of the child to be vested with the county child welfare department pending the hearing held pursuant to Section 355 or further order of the court, and ~~shall~~ order services to be provided as soon as possible to reunify the child and his or her family if appropriate.

(f) *(1)* When the child is not released from custody, the court may order that the child shall be placed in the assessed home of a relative, in an emergency shelter or other suitable licensed place, in a place exempt from licensure designated by the juvenile court, or in the assessed home of a nonrelative extended family member as defined in Section 362.7 for a period not to exceed 15 judicial days.

(2) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child: an adult who is a grandparent, aunt, uncle, or sibling of the child.

(3) The court shall consider the recommendations of the social worker based on the assessment pursuant to paragraph (1) of subdivision (d) of Section 309 of the relative's home, including the results of a criminal records check and prior child abuse allegations, if any, prior to ordering that the child be placed with a relative. The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child. The

social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement.

(g) (1) At the initial hearing upon the petition filed in accordance with subdivision (c) of Rule 1406 of the California Rules of Court or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, the court may temporarily limit the right of the parent or guardian to make educational decisions for the child and temporarily appoint a responsible adult to make educational decisions for the child if all of the following conditions are found:

(A) The parent or guardian is unavailable, unable, or unwilling to exercise educational rights for the child.

(B) The county placing agency has made diligent efforts to locate and secure the participation of the parent or guardian in educational decisionmaking.

(C) The child's educational needs cannot be met without the temporary appointment of a responsible adult.

(2) If the court cannot identify a responsible adult to make educational decisions for the child and the appointment of a surrogate parent as defined in subdivision (a) of Section 56050 of the Education Code is not warranted, the court may, with the input of any interested person, make educational decisions for the child. If the court makes educational decisions for the child, the court shall also issue appropriate orders to ensure that every effort is made to identify a responsible adult to make future educational decisions for the child.

(3) Any temporary appointment of a responsible adult and temporary limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. Any order made under this section shall expire at the conclusion of the hearing held pursuant to Section 361 or upon dismissal of the petition. Upon the entering of disposition orders, any additional needed limitation on the parent's or guardian's educational rights shall be addressed pursuant to Section 361.

SEC. 686. Section 1752.81 of the Welfare and Institutions Code is amended to read:

1752.81. (a) Whenever the ~~Director of the Youth Authority~~ *Chief Deputy Secretary for Juvenile Justice* has in his or her

possession in trust funds of a ward committed to the ~~authority~~ *division*, the funds may be released for any purpose when authorized by the ward. When the sum held in trust for any ward by the ~~Director of the Youth Authority~~ *Chief Deputy Secretary for Juvenile Justice* exceeds five hundred dollars ($500), the amount in excess of five hundred dollars ($500) may be expended by the ~~director~~ *chief deputy secretary* pursuant to a lawful order of a court directing payment of the funds, without the authorization of the ward thereto.

(b) Whenever an adult or minor is committed to or housed in a ~~Youth Authority~~ *Division of Juvenile Facilities* facility and he or she owes a restitution fine imposed pursuant to Section 13967 of the Government Code, as operative on or before September 28, 1994, or Section 1202.4 or 1203.04 of the Penal Code, as operative on or before August 2, 1995, or pursuant to Section 729.6, 730.6 or 731.1, as operative on or before August 2, 1995, the ~~Director of the Youth Authority~~ *Chief Deputy Secretary for Juvenile Justice* shall deduct the balance owing on the fine amount from the trust account deposits of a ward, up to a maximum of 50 percent of the total amount held in trust, unless prohibited by federal law. The ~~director~~ *chief deputy secretary* shall transfer that amount to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(c) Whenever an adult or minor is committed to, or housed in, a ~~Youth Authority~~ *Division of Juvenile Facilities* facility and he or she owes restitution to a victim imposed pursuant to Section 13967 of the Government Code, as operative on or before September 28, 1994, or Section 1202.4 or 1203.04 of the Penal Code, as operative on or before August 2, 1995, or pursuant to Section 729.6, 730.6, or 731.1, as operative on or before August 2, 1995, the ~~Director of the Youth Authority~~ *Chief Deputy Secretary for Juvenile Justice* shall deduct the balance owing on the order amount from the trust account deposits of a ward, up to a maximum of 50 percent of the total amount held in trust, unless prohibited by federal law. The ~~director~~ *chief deputy secretary* shall transfer that amount directly to the victim. If the restitution

is owed to a person who has filed an application with the Victims of Crime Program, the ~~director~~ *chief deputy secretary* shall transfer that amount to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for direct payment to the victim or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(d) Any compensatory or punitive damages awarded by trial or settlement to a minor or adult committed to the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* in connection with a civil action brought against any federal, state, or local jail or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against the minor or adult. The balance of any award shall be forwarded to the minor or adult committed to the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* after full payment of all outstanding restitution orders and restitution fines subject to subdivision (e). The ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* shall make all reasonable efforts to notify the victims of the crime for which the minor or adult was committed concerning the pending payment of any compensatory or punitive damages. This subdivision shall apply to cases settled or awarded on or after April 26, 1996, pursuant to Sections 807 and 808 of *Title VIII of* the federal Prison Litigation Reform Act of 1995 ~~(Title 8, P.L. 104-134)~~ *(P.L. 104-134; 8 U.S.C. Sec. 3626 (notes))*.

(e) The ~~director~~ *chief deputy secretary* shall deduct and retain from the trust account deposits of a ward, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred pursuant to subdivision (b) and (c), or 5 percent of any amount transferred pursuant to subdivision (d). The ~~director~~ *chief deputy secretary* shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution and victims program of the ~~Department of the Youth Authority~~

Division of Juvenile Facilities. The ~~director~~ *chief deputy secretary*, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the ~~department's~~ *division's* administrative and support costs for the restitution and victims program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(f) When a ward has both a restitution fine and a restitution order from the sentencing court, the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* shall collect the restitution order first pursuant to subdivision (c).

(g) Notwithstanding subdivisions (a), (b), and (c), whenever the ~~Director of the Youth Authority~~ *Chief Deputy Secretary for Juvenile Justice* holds in trust a ward's funds in excess of five dollars ($5) and the ward cannot be located, after one year from the date of discharge, absconding from the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* supervision, or escape, the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* shall apply the trust account balance to any unsatisfied victim restitution order or fine owed by that ward. If the victim restitution order or fine has been satisfied, the remainder of the ward's trust account balance, if any, shall be transferred to the Benefit Fund to be expended pursuant to Section 1752.5. If the victim to whom a particular ward owes restitution cannot be located, the ~~money~~ *moneys* shall be transferred to the Benefit Fund to be expended pursuant to Section 1752.5.

SEC. 687. Section 1773 of the Welfare and Institutions Code is amended to read:

1773. *(a)* No condition or restriction upon the obtaining of an abortion by a female committed to the ~~authority~~ *Division of Juvenile Facilities*, pursuant to the Therapeutic Abortion Act (Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions~~,~~ shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

(b) The rights provided for females by this section shall be posted in at least one conspicuous place to which all females have access.

~~If Assembly Bill No. 2087 of the 1972 Regular Session of the Legislature is chaptered, this section shall remain in effect only until the 61st day after the final adjournment of the 1974 Regular Session of the Legislature, and as of that date is repealed.~~

SEC. 688. Section 1800 of the Welfare and Institutions Code is amended to read:

1800. *(a)* Whenever the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* determines that the discharge of a person from the control of the ~~department~~ *division* at the time required by Section 1766, 1769, 1770, 1770.1, or 1771, as applicable, would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality ~~which~~ *that* causes the person to have serious difficulty controlling his or her dangerous behavior, the ~~department~~ *division*, through its ~~director~~ *Chief Deputy Secretary for Juvenile Justice*, shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the ~~authority~~ *division* beyond that time. The petition shall be filed at least 90 days before the time of discharge otherwise required. The petition shall be accompanied by a written statement of the facts upon which the ~~department~~ *division* bases its opinion that discharge from control of the ~~department~~ *division* at the time stated would be physically dangerous to the public, but the petition may not be dismissed and an order may not be denied merely because of technical defects in the application.

(b) The prosecuting attorney shall promptly notify the ~~Department of the Youth Authority~~ *Division of Juvenile Facilities* of a decision not to file a petition.

SEC. 689. Section 1800.5 of the Welfare and Institutions Code is amended to read:

1800.5. Notwithstanding any other provision of law, the ~~Youth Authority~~ Board *of Parole Hearings* may request the ~~Director of the Youth Authority~~ *Chief Deputy Secretary for Juvenile Justice* to review any case ~~where~~ *in which* the ~~department~~ *Division of Juvenile Facilities* has not made a request to the prosecuting attorney pursuant to Section 1800 and the board finds that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality ~~which~~ *that* causes the person to have

serious difficulty controlling his or her dangerous behavior. Upon the board's request, a mental health professional designated by the ~~director~~ *chief deputy secretary* shall review the case and thereafter may affirm the finding or order additional assessment of the ward. If, after review, the mental health designee affirms the initial finding, concludes that a subsequent assessment does not demonstrate that a ward is subject to extended detention pursuant to Section 1800, or fails to respond to a request from the board within the timeframe mandated by this section, the board thereafter may request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the ~~authority~~ *division* pursuant to Section 1800 if the board continues to find that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality ~~which~~ *that* causes the person to have serious difficulty controlling his or her dangerous behavior. The board's request to the prosecuting attorney shall be accompanied by a copy of the ward's file and any documentation upon which the board bases its opinion, and shall include any documentation of the ~~department's~~ *division's* review and recommendations made pursuant to this section. Any request for review pursuant to this section shall be submitted to the ~~director~~ *chief deputy secretary* not less than 120 days before the date of final discharge, and the review shall be completed and transmitted to the board not more than 15 days after the request has been received.

SEC. 690. Section 2017 of the Welfare and Institutions Code is amended to read:

2017. Proposals for both youth centers and youth shelters shall do all of the following:

(1) Document the need for the applicant's proposal.

(2) Contain a written commitment and a plan for the delivery of programs, including, where appropriate, plans for innovative nontraditional programs designed to meet the needs of the youth of the targeted community.

(3) (A) Contain a match for funding ~~which is~~ *as follows*:

(i) Equal to 25 percent of the total amount requested, when the applicant is a public agency or joint venture involving a public agency.

(ii) Equal to 15 ~~pecent~~ *percent* of the total amount requested, when the applicant is a private nonprofit agency.

(B) The match may be in cash or in kind.

(4) Document the cost effectiveness of the proposal.

(5) Contain a written commitment and plan to develop and implement a process to receive and consider feedback and suggestions from the community served including a separate mechanism for the youth it serves. A board of directors reflecting broad representation of the community will satisfy the requirement for community input.

(6) Document plans to utilize and coordinate with other organizations serving the same youth population, including making available center facilities where possible.

SEC. 691. Section 3150 of the Welfare and Institutions Code is amended to read:

3150. *(a)* Commencing July 1, 2005, any reference to the Narcotic Addict Evaluation Authority refers to the Board of Parole Hearings, any reference to the chairperson of the authority is to the chair of the board, and any reference to a member of the authority is to a commissioner of the board.

(b) The board shall conduct a full and complete study of the cases of all patients who are certified by the Secretary of the Department of Corrections and Rehabilitation to the board as having recovered from addiction or imminent danger of addiction to such an extent that release in an outpatient status is warranted.

(c) Members of other similar boards may be assigned to hear cases and make recommendations to the board on these matters. Those recommendations shall be made in accordance with policies established by a majority of the total membership of the board.

SEC. 692. Section 3151 of the Welfare and Institutions Code is amended to read:

3151. *(a)* Commencing July 1, 2005, after an initial period of observation and treatment, and subject to the rules and policies established by the secretary, whenever a person committed under Article 2 *(commencing with Section 3050)* or Article 3 ~~of this chapter~~ *(commencing with Section 3100)* has recovered from his *or her* addiction or imminent danger of addiction to such an extent that, in the opinion of the secretary, release in an outpatient status is warranted, the secretary shall certify that fact

to the board. If the secretary has not so certified within the preceding 12 months, in the anniversary month of the commitment of any person committed under this chapter, his *or her* case shall automatically be referred to the board for consideration of the advisability of release in outpatient status. Upon certification by the secretary or upon automatic certification, the board may release the person in an outpatient status subject to all rules and regulations adopted by the board, and subject to all conditions imposed by the board, whether of general applicability or restricted to the particular person released in outpatient status, and subject to being retaken and returned to inpatient status as prescribed in those rules, regulations, or conditions. The supervision of those persons while in an outpatient status shall be administered by the department. Those persons are not subject to ~~the provisions of~~ Section 2600 of the Penal Code.

(b) A single commissioner of the board may, by written or oral order, suspend the release in outpatient status of a person and cause him or her to be retaken, until the next meeting of the board. The written order of any commissioner shall be a sufficient warrant for any peace officer to return persons to physical custody.

(c) It is the duty of all peace officers to execute any order under this section in the same manner as ordinary criminal process.

SEC. 693. Section 4127 of the Welfare and Institutions Code is amended to read:

4127. *(a)* Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health escapes, ~~or~~ is discharged, or is on leave of absence from ~~such~~ *the* institution, and any personal funds or property of ~~such~~ *the* patient remains in the hands of the superintendent ~~thereof~~, and no demand is made upon ~~said~~ *the* superintendent by the owner of the funds or property or his *or her* legally appointed representative, all money and other intangible personal property of ~~such~~ *the* patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent ~~thereof~~ shall be held by him *or her* for a period of seven years from the date of ~~such~~ *the* escape, discharge, or leave of absence, for the benefit of ~~such~~ *the* patient or his *or her* successors in

interest~~; provided, however, that unclaimed~~. *Unclaimed* personal funds or property of minors on leave of absence may be exempted from ~~the provisions of~~ this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of Mental Health.

(b) Upon the expiration of ~~said~~ *the* seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to ~~the provisions of~~ Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(c) Upon the expiration of one year from the date of ~~such~~ *the* escape, discharge, or parole, *the following shall apply*:

~~(a)~~

(1) All deeds, contracts, or assignments shall be filed by the superintendent with the public administrator of the county of commitment of ~~such~~ *the* patient.

~~(b)~~

(2) All tangible personal property other than money, remaining unclaimed in ~~his~~ *the superintendent's* custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him *or her* subject to ~~the provisions of~~ Section 4125 of this code~~,~~ and ~~subject to the provisions of~~ Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If ~~he~~ *the superintendent* deems it expedient to do so, the superintendent may accumulate the property of several patients and may ~~seal~~ *sell* the property in ~~such~~ lots ~~as he may determine~~ *that the superintendent determines*, provided that ~~he~~ *the superintendent* makes a determination as to each patient's share of the proceeds.

(d) If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value~~,~~ or ~~if~~ its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

SEC. 694. Section 4242 of the Welfare and Institutions Code is amended to read:

4242. As used in this chapter, *the following definitions apply*:

(a) "Family" means persons whose children, spouses, siblings, parents, grandparents, or grandchildren have a serious mental disorder.

(b) "Serious mental disorder" means a mental disorder ~~which~~ *that* is severe in degree and ~~pesistent~~ *persistent* in duration and ~~which~~ *that* may cause behavioral disorder or impair functioning so as to interfere substantially with activities of daily living. Serious mental disorders include schizophrenia, major affective disorders, and other severely disabling mental disorders.

SEC. 695. Section 4461 of the Welfare and Institutions Code is amended to read:

4461. *(a)* All expenses incurred in returning ~~such persons~~ *an adult developmentally disabled person* to other states shall be paid by this state, the person, or his *or her* relatives, but the expense of returning ~~residents~~ *an adult developmentally disabled person who is a resident* of this state shall be borne by the state making the returns.

(b) The cost and expense incurred in effecting the transportation of ~~such~~ *the* nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose~~,~~ or, if necessary, from the money appropriated for the care of developmentally disabled persons upon vouchers approved by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board*.

SEC. 696. Section 4839 of the Welfare and Institutions Code is amended to read:

4839. The *State* Department of Developmental Services may study and prepare a plan in cooperation with the State Council on Developmental Disabilities. ~~Such a~~ *The* plan should consider the following: ~~necessary~~

(a) Necessary technical assistance, training, and evaluation to assure standards of quality and program success.

(b) ~~Maximize~~ *Maximization of* existing state and federal resources available to assist persons with developmental special needs to live in the least restrictive environment possible, including *the following*:

(1) Federal housing subsidy and assistance.

(2) Supplemental security income.

(3) Local social services.

(4) Local and state health services and related resources.

(c) Procedural standards for designated agencies, including *the following*:

(1) Program development process.

(2) Training for workers in the developmental services field.

(3) Management information system.

(4) Fiscal accountability and cost benefit control.

(5) Establishment of contractual relationships.

(6) Evaluation.

SEC. 697. Section 5723.5 of the Welfare and Institutions Code is amended to read:

5723.5. ~~Nothwithstanding —~~ *Notwithstanding* any other provision of state law, and to the extent permitted by federal law and consistent with federal regulations governing these claims, the state may seek federal reimbursement for back claims under the Short-Doyle Medi-Cal program.

SEC. 698. Section 7328 of the Welfare and Institutions Code is amended to read:

7328. Whenever a person~~,~~ *who is* committed to an institution subject to the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, under one of the commitment laws ~~— which~~ *that* provides for ~~reimburement~~ *reimbursement* for care and treatment to the state by the county of commitment of ~~such~~ *the* person, is accused of committing a crime while confined in ~~such~~ *the* institution and is committed by the court in which the crime is charged to another institution under the jurisdiction of the State Department of Mental Health or the Department of Corrections *and Rehabilitation*, the state rather than the county of commitment shall bear the subsequent cost of supporting and caring for ~~such~~ *the* person.

SEC. 699. Section 7515 of the Welfare and Institutions Code is amended to read:

7515. The medical director may, with the approval of the department having jurisdiction, cause the ~~preemptory~~ *peremptory* discharge of any person who has been a patient for the period of one month.

SEC. 700. Section 10053 of the Welfare and Institutions Code is amended to read:

10053. *(a)* "Services" means those activities and functions performed by social work staff and related personnel of the

department and county departments with or in behalf of individuals or families, which are directed toward the improvement of the capabilities of ~~such~~ *the* individuals or families maintaining or achieving a sound family life, rehabilitation, self-care, and economic independence.

(b) Services for children shall include the coordinated efforts of the State Departments of Social Services and Education to ~~insure~~ *ensure* that all children in receipt of aid under ~~Aid to Families with Dependent Children~~ *CalWORKs* are afforded the opportunity to participate and progress under an educational program ~~which~~ *that* will lead to their functioning at full capacity upon reaching maturity. The educational services aspect of public social services includes education for parents in food preparation and provision for nutritional supplements to the extent necessary and as authorized by Article ~~7~~ *9* (commencing with Section ~~11901)~~ *49510* of Chapter ~~4~~ *9* of ~~Division 9~~ *Part 27* of the Education Code.

SEC. 701. Section 11212 of the Welfare and Institutions Code is amended to read:

11212. *(a)* The state, through the county welfare department, shall reimburse the foster parent or foster parents for the cost of the burial plot and funeral expenses incurred for any child who, at the time of death, is receiving foster care, as defined in Section 11251, to the extent that the foster parent or foster parents are not otherwise reimbursed for costs incurred for ~~such~~ *those* purposes. ~~The~~

(b) The state, through the county welfare department, shall pay the burial costs and funeral expenses directly to the funeral home and the burial plot owner when *either* one of the following conditions exists: ~~(a) the~~

(1) The foster parent or foster parents request ~~such~~ *the* direct payment ~~or (b) the~~.

(2) The child's death is due to alleged criminal negligence or other alleged criminal action on the part of the foster parent or foster parents. ~~The~~

(c) The foster parent, or the funeral home and burial plot provider, shall file a claim for reimbursement of costs with the county welfare department at the time and in the manner specified by the department. The county welfare department shall pay ~~such~~ *the* claims in an amount not to exceed the level of

reimbursement allowed by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* for burial costs and funeral expenses under its Victims of Violent Crimes program, which is contained in Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. Claims for the burial costs and funeral expenses for a foster child shall be paid out of funds appropriated annually to the department for ~~such~~ *those* purposes.

SEC. 702. Section 11450.019 of the Welfare and Institutions Code is amended to read:

11450.019. Effective the first day of the month following 90 days after a change in federal law that allows states to reduce aid payments without any risk to federal funding under Title XIX of the Social Security Act contained in Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, the reductions in maximum aid payments specified in ~~Section~~ *Sections* 11450.01, 11450.015, and 11450.017 shall not be applied when all of the parents or caretaker relatives of the aided child living in the home of the aided child meet one of the following conditions:

(a) The individual is disabled and receiving benefits under Section 12200 or 12300.

(b) The individual is a nonparent caretaker who is not included in the assistance unit with the child.

(c) The individual is disabled and is receiving State Disability Insurance benefits or Worker's Compensation Temporary Disability benefits.

SEC. 703. Section 11495.25 of the Welfare and Institutions Code is amended to read:

11495.25. Sworn statements by a victim of past or present abuse ~~by a victim~~ shall be sufficient to establish abuse unless the agency documents in writing an independent, reasonable basis to find the recipient not credible. Evidence may also include, but is not limited to: police, government agency, or court records or files; documentation from a domestic violence program, legal, clerical, medical or other professional from whom the applicant or recipient has sought assistance in dealing with abuse; or other evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the

claim, ~~or~~ physical evidence of abuse, or any other evidence that supports the statement.

SEC. 704. Section 14092.35 of the Welfare and Institutions Code is amended to read:

14092.35. To the extent that this article proves to be effective in reducing the cost of ~~uncordinated~~ *uncoordinated* primary care delivered in the hospital emergency room or the costs of duplicative, unnecessary, or avoidable services, program savings may be shared with primary care providers who enroll beneficiaries under this article.

SEC. 705. Section 14125.9 of the Welfare and Institutions Code is amended to read:

14125.9. Nothing in this ~~section~~ *article* shall be interpreted as limiting or interfering in any way with the department's authority to contract for the provision of incontinence medical supplies pursuant to subdivision (b) of Section 14105.3.

SEC. 706. Section 14148.9 of the Welfare and Institutions Code, as added by Section 14 of Chapter 278 of the Statutes of 1991, is amended to read:

14148.9. (a) The Legislature finds and declares that there is a strong statistical relationship between early entry into prenatal care and healthy birth outcomes. An investment in early intervention is highly cost-effective and prevents untold suffering.

(b) It is the intent of the Legislature that the goals of the program established pursuant to this article, in combination with other programs for pregnant women and children, shall be *as follows*:

(1) To improve access to and quality of prenatal care by making existing programs serving poor women more accessible through outreach, coordination, and removal of barriers to care.

(2) To combine efforts with other programs to measurably reduce the number of women who smoke, use drugs, or engage in other unhealthy practices during pregnancy.

(c) ~~(1)~~ In order to achieve these goals, it is the intent of the Legislature to improve and coordinate existing programs for pregnant women and infants and to remove barriers to care with an intense focus on women who are at high risk of delivering a low or high birth weight baby or a baby ~~which~~ *who* will suffer from major health problems or disabilities.

(d) The program implemented pursuant to this article shall focus on those target populations that are comprised of pregnant high risk women or potentially pregnant teenagers, pregnant women, and women of childbearing age who are likely to become pregnant who smoke, consume alcoholic beverages, or use controlled substances, ~~and~~ Black, Hispanic, Native American, and Asian-Pacific Island women who are pregnant or of childbearing age, and uninsured women of childbearing age.

SEC. 707. Section 14166.18 of the Welfare and Institutions Code is amended to read:

14166.18. (a) With respect to each project year, the director shall determine a baseline funding amount for each nondesignated public hospital that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for both the 2004–05 fiscal year and the project year. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during *the* 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081) or the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The aggregate nondesignated public hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a).

(c) With respect to each project year beginning after the 2005–06 project year, an aggregate nondesignated public hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), with respect to inpatient hospital services rendered during the 2004–05 fiscal year for nondesignated public hospitals that were eligible hospitals under paragraph (3) of subdivision (a) of Section 14105.98 on the last day of the project year less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), with respect to inpatient hospital services rendered during the fiscal year preceding the project year for which the nondesignated public hospital adjusted baseline funding amount is being calculated for the nondesignated ~~pubic~~ *public* hospitals described in paragraph (1), less the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage in subparagraph (B) to the aggregate nondesignated public hospital baseline funding amount determined under subdivision (b) less the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(D) The aggregate nondesignated public hospital adjusted baseline funding amount is the amount determined in subdivision (b), plus the amount determined in subparagraph (C).

SEC. 708. Section 14171.5 of the Welfare and Institutions Code is amended to read:

14171.5. Any institutional provider of health care services that obtained reimbursement under this chapter to which it is not entitled shall be subject to the following interest charges or penalties:

(a) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (h) of Section 14171.

(b) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after this notice, plus the cost of the audit. In addition, interest shall be assessed at the rate specified in subdivision (h) of Section 14171. Providers who wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim ~~such~~ *the* cost or services and not be reimbursed therefor~~, provided that~~ *if* they are identified and presented separately on the cost report.

(c) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay a penalty of 25 percent of the amount improperly claimed, plus the cost of the audit, in addition to the amount thereof. In addition, interest will be assessed at the rate specified by subdivision (h) of Section 14171. A fraudulent claim is a claim upon which the provider has been convicted of fraud upon the program. Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(d) Appeals to action taken in subdivisions (a), (b), and (c) of Section 14171.5 above are subject to the administrative appeals process provided by Section 14171.

(e) Penalties paid by providers under subdivisions (a), (b), and (c) of Section 14171.5 are not reimbursable by the program.

(f) As used in this section, "the cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by ~~State Board of Control~~ *California Victim*

Compensation and Government Claims Board rules, and applicable overhead costs.

SEC. 709. Section 14171.6 of the Welfare and Institutions Code is amended to read:

14171.6. (a) (1) Any provider, as defined in paragraph (3), that obtains reimbursement under this chapter to which it is not entitled shall be subject to interest charges or penalties as specified in this section.

(2) When it is established upon audit that the provider has not received reimbursement to which the provider is entitled, the department shall pay the provider interest assessed at the rate, and in the manner, specified in subdivision (g) of Section 14171.

(3) For purposes of this section, "provider" means any provider, as defined in Section 14043.1.

(b) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (h) of Section 14171.

(c) (1) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay, in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after receipt of the notice, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified in subdivision (h) of Section 14171.

(3) Providers that wish to preserve appeal rights or to challenge the department's positions regarding appeal issues may claim the costs or services and not be reimbursed therefor if they are identified and presented separately on the cost report.

(d) (1) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay, in addition to that portion of the claim that was improperly claimed, a penalty of 300 percent of the amount improperly claimed, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified by subdivision (h) of Section 14171.

(3) For purposes of this subdivision, a fraudulent claim is a claim upon which the provider has been convicted of fraud upon the Medi-Cal program.

(e) Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(f) Any appeal to any action taken pursuant to subdivision (b), (c), or (d) is subject to the administrative appeals process provided by Section 14171.

(g) As used in this section, "cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by rules adopted by the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* and applicable overhead costs that are incurred by employees of the state in administering this chapter with respect to the performance of audits.

(h) This section shall not apply to any clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, clinics exempt from licensure under Section 1206 of the Health and Safety Code, health facilities licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or to any provider that is operated by a city, county, or school district.

SEC. 710. Section 14504 of the Welfare and Institutions Code is amended to read:

14504. (a) The Male Involvement Program shall be a continuing program within the Office of Family Planning with the goal of reducing teenage pregnancy through promoting primary prevention skills and motivation in adolescent boys and young men. In order to accomplish this goal, the program shall assist local programs to do all of the following:

(1) Increase community and individual awareness regarding the importance of the roles and ~~responsibilites~~ *responsibilities* of adolescent boys and young men in the reduction of teenage pregnancies.

(2) Reinforce community values that support these roles and responsibilities.

(3) Increase knowledge, skills, and motivation of at-risk adolescent boys and young adult men in order to actively promote their role in reducing teenage pregnancies.

(b) Grants shall be made available to qualifying public or private nonprofit providers for implementation of the Male Involvement Program.

(c) This section shall be implemented to the extent funding is made available through the federal government, or in the annual Budget Act or another state statute, or any combination of any sources of funding.

SEC. 711. Section 15634 of the Welfare and Institutions Code, as added by Section 8 of Chapter 140 of the Statutes of 2005, is amended to read:

15634. (a) No care custodian, clergy member, health practitioner, or employee of an adult protective ~~service~~ *services* agency or a local law enforcement agency who reports a known or suspected instance of elder or dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of elder or dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of elder or dependent adult abuse or causing photographs to be taken of ~~such a~~ *the* suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) No care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected elder or dependent adult abuse, provides the requesting agency with access to the victim of a known or suspected instance of elder or dependent adult abuse, shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report elder or dependent adult abuse, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or ~~an~~ employee of an adult protective services agency or a local law enforcement agency may present to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* a claim for reasonable ~~attorneys'~~ *attorney's* fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. ~~Attorneys'~~ *Attorney's* fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) This section shall become operative on January 1, 2013.

SEC. 712. Section 15655.5 of the Welfare and Institutions Code, as added by Section 12 of Chapter 140 of the Statutes of 2005, is amended to read:

15655.5. A county adult protective ~~service~~ *services* agency shall provide the organizations listed in paragraphs (v), (w), and (x) of Section 15610.17 with instructional materials regarding elder and dependent adult abuse and neglect and their obligation to report under this chapter. At a minimum, the instructional materials shall include the following:

(a) An explanation of elder and dependent adult abuse and neglect, as defined in this chapter.

(b) Information on how to recognize potential elder and dependent adult abuse and neglect.

(c) Information on how the county adult protective ~~service~~ *services* agency investigates reports of known or suspected abuse and neglect.

(d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective ~~service~~ *services* agency with its investigation of the report.

(e) This section shall become operative on January 1, 2013.

SEC. 713. Section 16500.1 of the Welfare and Institutions Code is amended to read:

16500.1. (a) It is the intent of the Legislature to use the strengths of families and communities to serve the needs of children who are alleged to be abused or neglected, as described in Section 300, to reduce the necessity for removing these children from their home, to encourage speedy reunification of families when it can be safely accomplished, to locate permanent homes and families for children who cannot return to their biological families, to reduce the number of placements experienced by these children, to ensure that children leaving the foster care system have support within their communities, to improve the quality and homelike nature of out-of-home care, and to foster the educational progress of children in out-of-home care.

(b) In order to achieve the goals specified in subdivision (a), the state shall encourage the development of approaches to child protection that do all of the following:

(1) Allow children to remain in their own schools, in close proximity to their families.

(2) Increase the number and quality of foster families available to serve these children.

(3) Use a team approach to foster care that permits the biological and foster family and the child to be part of that team.

(4) Use team decisionmaking in case planning.

(5) Provide support to foster children and foster families.

(6) Ensure that licensing requirements do not create barriers to recruitment of qualified, high-quality foster homes.

(7) Provide training for foster parents and professional staff on working effectively with families and communities.

(8) Encourage foster parents to serve as mentors and role models for biological parents.

(9) Use community resources, including community-based agencies and volunteer organizations, to assist in developing placements for children and to provide support for children and their families.

(10) Ensure an appropriate array of placement resources for children in need of out-of-home care.

(11) Ensure that no child leaves foster care without a lifelong connection to a committed adult.

(12) Ensure that children are actively involved in the case plan and permanency planning process.

(c) In carrying out the requirements of subdivision (b), the department shall do all of the following:

(1) Consider the existing array of program models provided in statute and in practice, including, but not limited to, wraparound services, as defined in Section 18251, children's systems of care, as provided for in Section 5852, the Oregon Family Unity or Santa Clara County Family Conference models, which include family conferences at key points in the casework process, such as when out-of-home placement or return home ~~are~~ *is* considered, and the Annie E. Casey Foundation Family to Family initiative, which uses team decisionmaking in case planning, community-based placement practices requiring that children be placed in foster care in the communities where they resided prior to placement, and involve foster families as team members in family reunification efforts.

(2) Ensure that emergency response services, family maintenance services, family reunification services, and permanent placement services are coordinated with the implementation of the models described in paragraph (1).

(3) Ensure consistency between child welfare services program regulations and the program models described in paragraph (1).

(d) The department, in conjunction with stakeholders, including, but not limited to, county child welfare services agencies, foster parent and group home associations, the California Youth Connection, and other child advocacy groups,

shall review the existing child welfare services program regulations to ensure that these regulations are consistent with the legislative intent specified in subdivision (a). This review shall also determine how to incorporate the best practice guidelines for assessment of children and families receiving child welfare and foster care services, as required by Section 16501.2.

(e) The department shall report to the Legislature on the results of the actions taken under this section on or before January 1, 2002.

SEC. 714. Section 16583 of the Welfare and Institutions Code is amended to read:

16583. The Judicial Council shall develop the forms necessary to implement this ~~article~~ *chapter*.

SEC. 715. Section 16800.7 of the Welfare and Institutions Code is amended to read:

16800.7. Agencies responsible for conducting fiscal or program audits or inspections of grants or subventions pursuant to any of the following provisions shall, to the extent practicable and consistent with federal law, endeavor to cooperate and consolidate efforts so as to conduct a single fiscal or compliance audit for any program affected by these provisions, thereby maximizing audit efficiency and minimizing the inconvenience to the program being audited:

(a) The Child Health Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code).

(b) The Maternal and Child Health program as set forth in subdivision (c) of Section 27 of the Health and Safety Code.

(c) The Tobacco Use Prevention program (Article 1 (commencing with Section 104350) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code).

(d) AIDS programs (former Part 1 (commencing with Section 100) of Division 1 of the Health and Safety Code).

(e) The County Health Care for Indigents program (Part 4.7 (commencing with Section ~~16900)~~ *16900))*, including, but not limited to, county health care reporting requirements pursuant to Chapter 2 (commencing with Section 16910) and Chapter 2.5 (commencing with Section 16915) of ~~Part 4.7 (commencing with Section 16900)~~ *that part*.

SEC. 716. Section 17800 of the Welfare and Institutions Code is amended to read:

17800. A not-for-profit hospital that elects to participate in the drug discount program established under Section 340B of the *federal* Public Health Service Act *(42 U.S.C. Sec. 2566)* may enter into an agreement with the State Department of Health Services for that purpose, which shall be subject to this part.

SEC. 717. Section 18325.5 of the Welfare and Institutions Code is amended to read:

18325.5. It is the intention of the Legislature that the State of California through state, local governmental, and private agencies shall make a maximum contribution of their in-kind resources and in-kind facilities in order to implement ~~the provisions of~~ this chapter under Title III of the Older Americans Act of 1965, as amended, provided however that should federal funds become available under Title VII of the Older Americans Act of 1965 *(42 U.S.C. Sec. 3021 et seq.)*, as amended, the Legislature intends that programs provided pursuant to this chapter be implemented to the maximum extent feasible under Title VII *(former 42 U.S.C. Sec. 3045 et seq.)* in order to secure the maximum federal financial participation. The Older Americans Act of 1965 *(42 U.S.C. Sec. 3001 et seq.)*, as amended, states that the federal government will share in the cost of approved programs and that the local or state share may be "in-kind" contributions.

SEC. 718. Section 18906.5 of the Welfare and Institutions Code is amended to read:

18906.5. (a) The state shall pay 70 percent of the nonfederal costs of administering the Food Stamp Program, subject to ~~the provisions of Section~~ *Sections* 18906 and 18906.7. The counties shall pay the remaining share of the nonfederal costs.

(b) The state shall pay 85 percent of the nonfederal share of the costs of AFDC fraud investigation subject to Section 15204.5. The counties shall pay the remaining share of the nonfederal costs.

SEC. 719. Section 1 of Chapter 260 of the Statutes of 2004, as amended by Chapter 19 of the Statutes of 2005, is amended to read:

Section 1. For purposes of making reductions, initiated during the 2004–05 or 2005–06 school ~~years~~ *year* pursuant to Section

44955 of the Education Code, in the number of employees because of a reduction in services or elimination of a juvenile camp program, a county superintendent of schools in a county of the first class may retain those employees until the effective date of the closure or reduction in services of that juvenile camp program.

SEC. 720. Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), as amended by Chapter 41 of the Statutes of 2002, is amended to read:

Sec. 31.5. (a) Basin equity assessments and production requirements and limitations on persons and operators within the district are declared to be in furtherance of district activities in the protection of water supplies for users within the district ~~which~~ *that* are necessary for the public health, welfare, and safety of the people of this state. The basin equity assessments and the production requirements and limitations provided for in this act may be imposed upon, and applied to, all persons and producers within the district for the benefit of all who rely directly or indirectly upon the groundwater supplies of the district.

(b) The basin equity assessments imposed pursuant to this act against all persons and operators within the district may be uniform or nonuniform in amount, as determined by the board of directors of the district, in order to effectuate the goals and purposes of the district. The proceeds of the basin equity assessments imposed and collected shall be used to equalize the cost of water to all persons and operators within the district and to acquire water to replenish the groundwater supplies of the district.

(c) As used in this act:

(1) "Supplemental sources" means sources of water outside the watershed of the Santa Ana River, excepting that portion of that watershed on and along Santiago Creek upstream of the downstream toe of the slope of the Villa Park Flood Control Dam, such as, but not limited to, water produced from the Metropolitan Water District of Southern California.

(2) "Basin production percentage" means the ratio that all water to be produced from groundwater supplies within the district bears to all water to be produced by persons and operators within the district from supplemental sources and from groundwater within the district during the ensuing water year.

(d) The district shall annually order an engineer employed by the district to prepare an investigation and report. The investigation and report shall set forth all of the following information, together with other information requested by the district, relating to the preceding water year:

(1) Amount of water produced by persons and operators from groundwater within the district.

(2) Amount of water produced by persons and operators from supplemental sources.

(3) Amount of water produced by persons and operators from all other sources.

(4) Condition of groundwater supplies within the district.

(5) Information as to the probable availability of water from supplemental sources during the next succeeding fiscal year.

(6) The cost of producing water from groundwater within the district, including any replenishment assessment of the district.

(7) The cost of water produced within the district from supplemental sources.

(e) (1) On the second Wednesday in February of each year, the engineering investigation and report shall be delivered to the secretary of the district.

(2) The secretary shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of the report and of the public hearing to be held on the date of a meeting of the board of directors in March, in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding water supplies within the district is to be held.

(3) The notice, among any other information that the district may provide, shall include an invitation to all persons or operators within the district to call at the offices of the district to examine the engineering investigation and report.

(4) The board of directors shall hold on the date of a meeting of the board in March of each year, a public hearing at which a person or operator within the district, or any person interested in the amounts and source from which all persons and operators produce their total supply of water, as well as the estimated difference in the cost of water produced from groundwater within the district or supplemental sources, may appear and be heard, in person or by representative.

(f) (1) On the date of a meeting of the board of directors in April of each year, the board of directors shall hold a public hearing to determine the need and desirability of imposing basin equity assessments and the amounts thereof, the need for establishing production requirements and limitations, and the extent of those requirements and limitations as to each person or operator within the district for the ensuing water year.

(2) In computing and fixing the amount of any basin equity assessment for any person or operator within the district, the board may allow a percentage for delinquencies, not to exceed 10 percent, as determined by the board.

(3) Notice of the proposed hearing shall be published in the district pursuant to Section 6061 of the Government Code at least 10 days prior to the date set for the hearing.

(4) The notice shall set forth all of the following:

(A) That a report regarding water supplies within the district has been prepared.

(B) The date, time, and place of the proposed hearing.

(C) A statement that the board will consider at the hearing the need and desirability of imposing basin equity assessments and the amounts of those assessments, as well as establishing production requirements and limitations, on persons and operators within the district for the ensuing water year and surcharges in connection with those requirements and limitations.

(D) An invitation to all persons and operators to appear at the public hearing and be heard in regard to any of the foregoing matters.

(g) (1) At the hearing, the board shall hear, take, and receive all competent evidence presented regarding the need for basin equity assessments, production requirements and limitations in general, and specifically, the extent of those requirements or limitations as to each person or operator within the district, the amount of the basin equity assessment which shall be imposed upon each person and operator for all purposes other than irrigation at uniform or nonuniform rates and may be imposed upon each person and operator for irrigation purposes at uniform or nonuniform rates for the ensuing water year, and the amount of surcharges for production in excess of the basin production limitations.

(2) After the hearing, the board may, by a resolution adopted by a vote of not ~~less~~ *fewer* than eight members of the board, find and determine for the ensuing water year all of the following:

(A) The estimated total amount of water to be produced by all persons and operators within the district from the groundwater within the district and the estimated amount to be produced by persons and operators from supplemental sources.

(B) The basin production percentage.

(C) That a basin equity assessment and production requirement and limitation from groundwater within the district are necessary for the protection of the water supply of the district.

(D) The surcharge, in an amount to be determined in the discretion of the board, for production in excess of the production limitations.

(E) The amount of the basin equity assessment to be imposed upon each person and operator in a dollar amount per acre-foot of water produced from the groundwater supply for all purposes other than irrigation, which need not be uniform as to each person or operator within the district, and that the amount is reasonable.

(F) The amount of the basin equity assessment to be imposed upon each person and operator in a dollar amount per acre-foot of water produced from the groundwater supply for irrigation purposes, which need not be uniform as to each person or operator within the district, and that the amount is reasonable.

(G) Production requirements or limitations and the surcharge for production in excess of the basin production limitations on persons and operators within the district that will apply during the ensuing water year. The requirements and limitations shall be on the amount of groundwater produced by those persons and operators expressed in a percentage of overall water produced or obtained by those persons or operators from groundwater within the district and from supplemental sources.

(H) That during the ensuing water year, upon the district giving published notice pursuant to Section 6061 of the Government Code in a newspaper of general circulation printed and published within the district at least 10 days prior to such a hearing, a subsequent public hearing may be held to modify the basin production percentage, any basin equity assessment, any

production requirement or limitation, or the surcharge for production in excess of the production limitation established by the district. A modification, if any, shall be effective on the date established by the board and the district. The district shall give notice of the modification 10 days prior to the effective date of the modification pursuant to subdivision (e).

(h) (1) The board may exclude all persons and operators who produced 25 acre-feet or less of water from groundwater within the district during the ensuing water year from the imposition of the basin equity assessment and the production requirements and limitations.

(2) All findings and determinations made by the board pursuant to this section are final, conclusive, and binding upon all persons and parties.

(i) (1) The district shall thereafter, and in any event prior to July 1 in each year, give notice to each person or operator within the district. The notice shall include all of the following information:

(A) The amount of the basin equity assessment imposed upon that person or operator per acre-foot of water produced for purposes other than irrigation and the amount of the basin equity assessment imposed upon that person or operator per acre-foot of water produced for irrigation purposes.

(B) The basin production percentage.

(C) The production requirement or limitation upon the person or operator.

(D) The amount of surcharge imposed for production in excess of the basin production limitations.

(2) The notice required by this subdivision and the notice of any subsequent modifications may be sent by postcard or by other first-class mail with postage prepaid by the district.

(j) (1) Each person or operator within the district not excluded from the imposition of a basin equity assessment and the production requirements and limitations, shall file with the district, on or before ~~the 30th day of~~ September *30* of each year, a basin equity assessment report in the form prescribed by the district setting forth the total amounts of water produced from groundwater within the district and from supplemental sources during the preceding water year by the person or operator. The

statement shall be verified by a written declaration under penalty of perjury.

(2) If the person or operator has been required by the district to produce, or has in fact produced, more water from groundwater within the district than the equivalent of the basin production percentage determined by the district, that person or operator shall pay to the district, on or before September 30, an amount determined by the number of acre-feet of water which the person or operator has produced from groundwater within the district in excess of the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment rate applicable to that person or operator, plus the amount of surcharge due for production in excess of the production limitations.

(3) (A) If a person or operator, pursuant to the requirement of the district, has produced from groundwater within the district less than ~~of~~ the equivalent of the basin production percentage, the district shall pay the person or operator, on or before ~~the 30th day of~~ November *30*, from the basin equity assessment fund, an amount determined by the number of acre-feet by which the production of the person or operator from groundwater as required by the district is less than the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment rate applicable to that person or operator.

(B) If the production of the person or operator from groundwater is more than the production required by the district and less than the equivalent of the basin equity production percentage, then the district shall pay the person or operator an amount determined by the number of acre-feet by which the actual production of the person or operator from groundwater is less than the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment applicable to that person or operator.

(k) If any person or operator fails to pay, when due, the applicable basin equity assessment or surcharge due for production in excess of the production limitations, the district shall charge interest on the delinquent amount at the rate of 1 percent each month or fraction thereof for which the amount remains delinquent. Should any person or operator within the district fail to file a basin equity assessment report on or before

~~the 30th day of~~ November *30* of any year, the district shall, in addition to charging interest, assess a penalty charge against that person or operator in the amount of 10 percent of the amount found by the district to be due.

(*l*) (1) The district may require other reports from persons and operators as necessary and desirable in the application of the basin equity assessment procedures.

(2) Upon good cause shown, an amendment to any report required under this section may be filed, or a correction of any report may be made, within six months after the date the report was filed with the district.

SEC. 721. Section 12 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951), as amended by Chapter 89 of the Statutes of 1999, is amended to read:

Sec. 12. (a) The board may institute proceedings for the formation of single zones and also institute projects for single zones and joint projects for two or more zones that may involve the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any work or improvement of common benefit to that zone or participating zones. The board may also institute separate projects for operation and maintenance of works or improvements for any zones, whether the works or improvements have been constructed by the board or by the state or the federal government or both. Any zone shall include, as far as practicable, all lands that will be benefited by any project proposed for that zone.

(b) Proceeding for the formation of any zone and for the establishment of any project for that zone may be conducted jointly. For the purpose of establishing any zone or participating zones or of acquiring authority to proceed with that project, the board shall adopt a resolution specifying its intention to establish that zone or zones or to undertake that project, or both thereof, together with the engineering and other estimates of the cost of same to be borne by the particular zone and, in the case of participating zones, the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of that resolution; and that resolution shall refer to a map or maps showing the boundaries of each zone and the general location and general construction of that project. The resolution

shall also describe the boundaries of any zone proposed to be established; otherwise adequate reference to any established zone involving the project shall be sufficient.

(c) Notice of the hearing shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation, circulated in that zone or each of those participating zones, if there ~~be such~~ *is a* newspaper *of general circulation,* ~~and~~ *or* if there ~~be~~ *is* no ~~such~~ newspaper *of general circulation,* then by posting notice for two consecutive weeks prior to that hearing in five public places designated by the board, in that zone or in each of those participating zones. Publication shall be completed at least seven days before the date of the hearing. The notice shall contain a copy of the resolution. The notice shall designate a public place in the zone or in each of the participating zones where a copy or copies of the map or maps of each proposed single zone and any project for a single zone or the joint project for participating zones may be seen by any interested person, and the map shall be posted in each of the public places so designated in the notice at least two weeks prior to the hearing.

(d) At the time and place fixed for the hearing, or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the proposed zone or project.

(e) If it is shown that any land is improperly included in the boundaries proposed for the zone, the board, in its order for formation of the zone, shall exclude the land therefrom. If the board ~~shall conclude~~ *concludes* that lands that will be benefited by the zone are improperly omitted from the proposed zone, and the owners thereof have not appeared at the hearing, the board shall continue the hearing and direct that notice be given to nonappearing landowners to appear before the board and show cause why their lands should not be included in the proposed zone. The notice shall be given either by publication or posting in the same manner and for the same period as the original notice of hearing or by personal service on each landowner. Any personal service shall be made at least three days prior to the date fixed for further hearing. Proof of the notice given shall be filed with the clerk of the board on or before the day to which the hearing is continued.

(f) The board may continue the hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had.

(g) If an order for formation of the zone is made at the conclusion of the hearing, the order shall describe the exterior boundaries of the zone as determined by the board, shall be signed by the chairman of the board and attested by the clerk thereof, and *shall* be recorded by the county recorder in his *or her* official records.

(h) Upon the conclusion of the hearing, the board may abandon the proposed zone or project or proceed with the ~~same~~ *proposed zone or project*, unless prior to the conclusion of the hearing, a written protest against the proposed zone or project signed by a majority in number of the holders of title to real property, or *holders of* assessable rights ~~therein~~ *in real property*, or *holders of* evidence of title ~~thereto~~ *to real property*, representing one-half or more of the assessed valuation of the real property within the zone or within any of the participating zones, ~~be~~ *is* filed with the board~~, in which event~~. *In this case,* further proceedings relating to the zone or project shall be suspended for not less than six months following the date of the conclusion of the hearing, or the proceeding may be abandoned in the discretion of the board.

(i) For the purposes of this section, the last equalized assessment roll of the County of Lake next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and numbers of the persons who are the holders of title ~~or~~, evidence of title, or assessable rights ~~therein~~ *in title to real property*, and as to the assessed valuation of real property within the zone or within any of the participating zones for which the project was initiated.

(j) Executors, administrators, special administrators, and guardians may sign the protest provided for in this act on behalf of the estate represented by them. If the property is assessed in the name of those representatives, that fact shall establish the right of those representatives to sign the protest~~; if~~. *If* assessed in the name of the decedent, minor, or incompetent person, certified copies of the letters or other evidence ~~as may be~~ satisfactory to the board ~~must~~ *shall* be produced.

(k) If real property appears to be owned in common or jointly or by a partnership, or if letters of representatives of decedents, minors, or guardians are joint, only one of the owners ~~or~~, representatives, or partners may sign the protest for all joint owners ~~or~~, representatives, or partners~~; provided, that~~ *if* the party claiming the right to protest for all produces the written consent of his or her coowners ~~or~~, representatives, or partners ~~so~~ to do *so*, duly acknowledged by the consenting coowners ~~or~~, representatives, or partners in the manner that deeds of real property are required to be acknowledged to entitle those deeds to be recorded in the recorder's office of the county. Any joint owner ~~or~~, partner, or tenant in common may sign and thus be counted independently for this proportionate share of the assessed valuation of that real property as shall be determined by division of the evaluation by the number of jointly interested owners ~~thereof~~ *of the real property*.

(*l*) If real property is assessed in the name of a trustee or trustees, the trustee or trustees shall be deemed to be the person entitled to sign the protest, and if assessed in the name of more than one trustee, the right to sign the protest shall be determined in like manner as ~~above~~ provided *in subdivision (k)* with respect to coowners.

(m) The protest of any public or quasi-public corporation, private corporation or unincorporated association~~,~~ may be signed by any person authorized by the board of directors ~~or~~, trustees, or other managing body ~~thereof~~ *of the corporation or association*, which authorization shall be in writing~~; and a~~. *A* proxy executed by an officer or officers ~~thereof~~ *of the association or corporation*, attested by its seal, and duly acknowledged~~,~~ shall constitute sufficient evidence of that authority, and shall be filed with the board.

(n) The owner of any real property or interest ~~therein~~ *in real property*, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner appearing ~~as the~~ on the last equalized assessment roll, since the ~~same~~ *last equalized assessment* was made, shall be entitled to sign the protest represented thereby, either by the production of a proxy from the former owner, or by furnishing evidence of his or her ownership by a conveyance duly acknowledged showing the title to be vested in the person

claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the county, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

(o) If the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless that real property is assessed in the name of the vendor, in which event the vendor shall be entitled to so do.

(p) The board may inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. ~~And, unless~~ *Unless* satisfactory evidence is furnished, the right to sign the protest may be denied.

(q) In its resolution of intention on the institution of any project for operation and maintenance of works or improvements for any zone and in the order of adoption of the project, the board shall fix a total amount that it will raise annually thereafter by assessments under Section 13.1 *of this act* to pay the expenses of that operation and maintenance.

(r) If the board determines that it is necessary to increase the annual assessments to meet operational and maintenance requirements of the works or improvements of any zone, it may increase the assessments in the manner in which the assessments were originally established and in accordance with other applicable provisions of law.

SEC. 722. Section 87 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Section 18 of Chapter 399 of the Statutes of 1996, is amended to read:

Sec. 87. (a) The tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows:

(1) For the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient,

for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff, and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel

docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas.

(7) For the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.

(b) The district or its successors shall not, at any time, grant, convey, give, or alienate those lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever. However, the district, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease those lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from those leases, franchises, and privileges. Those lease or leases, franchises, and privileges may be for any and all purposes ~~which shall~~ *that do* not interfere with commerce and navigation.

(c) Those lands shall be improved without expense to the state. However, nothing in this section shall preclude expenditures for the development of those lands for any public purpose not inconsistent with commerce, navigation, and fishery, by the state, or any board, agency, or commission thereof, when authorized or approved by the district, or preclude expenditures by the district of any funds received for that purpose from the state or any board, agency, or commission thereof.

(d) In the management, conduct, operation, and control of those lands or any improvements, betterments, or structures thereon, the district or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments, or structures constructed upon those lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on those lands with the right of convenient access to that water over those lands for that purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in those lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from ~~said~~ *those* lands.

(h) Those lands shall be held subject to the express reservation and condition that the state may at any time in the future use those lands or any portion for highway purposes without compensation to the district, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements, betterments, or structures have been placed upon the property taken by the state for those purposes, compensation shall be made to the district, its successors, or assigns, or any person, firm, or public or private corporation entitled thereto for the value of his or her or its interest in the improvements, betterments, or structures taken or the damages to that interest.

(i) The State ~~lands~~ *Lands* Commission, at the cost of the district, shall survey and monument those lands and record a description and plat thereof in the office of the County Recorder of San Diego County.

(j) As to any tide and submerged lands conveyed to the district by a city that are subject to a condition contained in a grant of those lands to the city by the state that those lands shall be substantially improved within a designated period or else they shall revert to the state, that condition shall remain in effect as to those lands and shall be applicable to the district.

As to any tide and submerged lands conveyed to the district by a city that are not subject to ~~such a~~ *this* condition contained in a grant by the state and that have not heretofore been substantially improved, those lands, within 10 years from July 12, 1962, shall be substantially improved by the district without expense to the state. If the State Lands Commission determines that the district has failed to improve the lands as herein required, all right, title, and interest of the district in and to those lands shall cease and the lands shall revert and rest in the state.

SEC. 723. Section 26.9 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 31.5 of Chapter 1195 of the Statutes of 1993, is amended to read:

Sec. 26.9. (a) After the establishment of a zone in which a groundwater charge may be levied, each owner or operator of a water-producing facility within the zone, until the time that the water-producing facility has been permanently abandoned, shall file with the district, on or before the 30th day following the end of collection periods established by the board, a water production statement setting forth the total production in acre-feet of water for the preceding collection period, a general description or number locating each water-producing facility, the method or basis of the computation of the water production, and the amount of the groundwater charge based on the computation. The collection periods may be established at intervals of not more than one year or less than one month. If no water has been produced from the water-producing facility during a preceding collection period, this statement shall be filed as provided for in this section, setting forth that no water has been produced during the applicable period. The statement shall be verified by a written declaration under penalty of perjury.

(b) The groundwater charge is payable to the district on or before the last date upon which the water production statements shall be filed, and is computed by multiplying the production in acre-feet of water for each classification as disclosed in the statement by the groundwater charge for each classification of water. The owner or operator of a water-producing facility ~~which~~ *that* is being permanently abandoned shall give written notice of the abandonment to the district. If any owner or operator of a water-producing facility fails to pay the groundwater charge when due, the district shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater charge.

(c) If any owner or operator of a water-producing facility fails to register each water-producing facility, or fails to file the water production statements as required by this act, the district shall, in addition to charging interest, assess a penalty charge against the owner or operator in an amount of 10 percent of the amount found by ~~said~~ *the* district to be due. The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

(d) If any owner or operator of a water-producing facility fails to file a water production statement as required by this act, the district shall, in addition to charging interest and assessing a

penalty charge, assess an administrative charge to recover the costs of collection. The board may adopt regulations to provide that in excusable or justifiable circumstances the administrative charge may be reduced or waived.

(e) If a water-measuring device is permanently attached to a water-producing facility, the record of production as disclosed by the water-measuring device shall be presumed to be accurate and shall be used as the basis for computing the water production of the water-producing facility in completing the water production statement, unless it can be shown that the water-measuring device is not measuring accurately.

(f) If a water-measuring device is not permanently attached to a water-producing facility, the board may establish a method or methods to be used in computing the amount of water produced from the water-producing facilities. The methods may be based upon any or all of the following criteria: the minimum charge sufficient to cover administrative costs of collection, size of water-producing facility discharge opening, area served by the water-producing facility, number of persons served by the water-producing facility, use of land served by the water-producing facility, crops grown on land served by the water-producing facility, or any other criteria ~~or criteria which~~ *that* may be used to determine with reasonable accuracy the amount of water produced from that water-producing facility. The district may levy an annual charge upon a water-producing facility for which no production has been recorded but ~~which~~ *that* has not been permanently abandoned if that charge does not exceed the annual cost to the district of maintaining and administering the registration of that facility.

SEC. 724. Section 8 of the San Mateo County Flood Control District Act (Chapter 2108 of the Statutes of 1959), as amended by Chapter 1208 of the Statutes of 1992, is amended to read:

Sec. 8. (a) The board of supervisors of the district may, in any year, do any of the following:

(1) *(A)* Levy taxes or assessments in each or any of the zones of the district to pay the cost and expenses of administering, engineering, constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established, or to be established, within or on behalf of the zone or zones, according to the benefits derived or

to be derived by the respective zones, by either of the following methods:

~~(A)~~

(i) By a levy or assessment upon all property within a zone or participating zone, including land, improvements ~~thereon~~ *on the land*, and personal property~~;~~.

~~(B)~~

(ii) By a levy or assessment upon all real property within a zone or participating zone, including both land and improvements.

(B) It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

(2) Levy taxes or assessments by either method authorized by ~~subdivision 1 of this section~~ *paragraph (1)* in each or any~~,~~ of the zones, according to the special benefits derived or to be derived by the specific properties ~~therein~~ *in a zone or zones*, to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to the zone or zones, including the constructing, administering, engineering, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement ~~established or~~ *established, or* to be established, within or on behalf of the zone or zones.

(3) Levy taxes or assessments within a zone within which one or more subzones are established pursuant to Section 10.1 of this act in the manner provided by, and subject to the limitations of, that section.

(b) The taxes or assessments shall be levied and collected together with, and not separately from, taxes for county purposes, ~~and~~ the revenues derived from the taxes shall be paid into the county treasury to the credit of the district, and the board of supervisors shall have the power to control and order the expenditure for these purposes. However, no revenues, or portions thereof, derived in any of the several zones from the taxes or assessments levied under ~~subdivision 1~~ *paragraph (1) of subdivision (a)* shall be expended for administering, engineering, constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone except as provided in Section 11. Moreover, the aggregate taxes or assessments levied in any zone or subzone

established under this act for any fiscal year shall not exceed forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation of the taxable property in the zone or subzone, exclusive of any tax levied to meet the bonded indebtedness of any zone or subzone and the interest ~~thereon~~ *on the bonded indebtedness*. The maximum rate of forty cents ($0.40) set forth ~~herein~~ *in this subdivision* supersedes any maximum tax or assessment rate previously fixed by the board in a resolution establishing any zone or subzone pursuant to Section 10, and may be levied within any zone or subzone irrespective of any maximum tax or assessment rate so fixed.

(c) (1) The board may also, by an ordinance approved by two-thirds of the board, impose charges in any zone or subzone for the specific purpose of funding flood control, storm drainage, water conservation or supply, or water pollution abatement projects or programs either adopted or modified pursuant to Section 10.3 or 10.4.

(2) Revenues derived under this subdivision shall be used for acquisition, construction, repair, maintenance, replacement, operation, and administration of flood control, storm drainage, water conservation or supply, or sewer systems, or water pollution abatement projects for benefit of any zone or subzone.

(3) Charges may be collected together with the charges imposed for any other utility service furnished by a department or agency over which the board does not exercise control, or with a publicly or privately owned public utility, with the written consent and agreement of that department ~~or~~, agency, or public utility owner, which agreement shall establish the terms and conditions upon which the collections shall be made. The agreement, in the discretion of the department ~~or~~, agency, or public utility owner making the collections, also may provide that those rates shall be itemized, billed upon the same bill, and collected as one item, together with, and not separately from, the other utility service charge.

(4) If the board has adopted an ordinance pursuant to this subdivision, it may, by that ordinance or by separate ordinance or resolution, approved by a two-thirds vote of the board, elect to have the charges collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, its general taxes. In that event, it shall cause a

written report to be prepared each year and filed with the clerk, which shall contain a description of each parcel of real property receiving the services and facilities and the amount of the charge for each parcel for the year, computed in conformity with the charges prescribed by the ordinance or resolution.

(5) Any ordinance or resolution adopted pursuant to this subdivision, authorizing the collection of charges on the tax roll, shall remain in effect for the time specified in the ordinance or resolution, or, if no time is specified in the ordinance or resolution, until repealed or until a change is made in the rates.

(6) The real property may be described by reference to maps prepared in accordance with Section 327 of the Revenue and Taxation Code, and on file with the Office of the Assessor of San Mateo County or by reference to plats or maps on file in the office of the clerk.

(7) On or before August 10 of each year following the final determination upon each charge, the clerk shall file with the auditor a copy of the report prepared pursuant to this subdivision with a statement endorsed on the report over his or her signature that the report has been finally adopted by the board. The auditor shall enter the amounts of the charges against the respective lots or parcels of land, as they appear on the current assessment roll.

(8) The board may impose a basic penalty of not more than 10 percent for nonpayment of the charges within the time and in the manner prescribed by it, and in addition may provide for a penalty, not exceeding 1½ percent per month, for nonpayment of the charges and basic penalty. The board may provide for the collection of these penalties.

SEC. 725. Section 26.7 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 664 of the Statutes of 1992, is amended to read:

Sec. 26.7. (a) (1) Prior to the end of the water year in which the hearing is held, and based upon the findings and determinations from the hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones.

(2) If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix the charge or charges against all persons operating groundwater-producing facilities within the zone or zones during the ensuing water year.

(3) (A) The charge shall be computed at a fixed and uniform rate or rates per acre-foot for agriculture water, and at a fixed and uniform rate or rates per acre-foot for all water other than agricultural water.

(B) Different rates may be established in different zones, except that in each zone the rate or rates for agricultural water shall be fixed and uniform.

(C) The rate or rates, as applied to operators who produce groundwater above a specified annual amount, may, except in the case of any person extracting groundwater in compliance with a government-ordered program of cleanup of hazardous waste contamination, be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board, upon a finding by the board that conditions of drought and water shortage require the increases. The increases shall be related directly to the reduction in the affected zone groundwater levels in the same base period.

(D) The rates shall be established each year in accordance with a budget for that year submitted by the district to the Board of Supervisors of Santa Clara County pursuant to this act, or amendments or adjustments to that budget, and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each ~~such~~ rate for agricultural water shall not exceed one-fourth of the rate for all water other than agricultural water.

(b) (1) The board may also impose or adjust any groundwater charge, and the rate of any charge, on or before January 1 of each water year ~~or at any time during the 1992–93 water year whenever~~ *if* the board determines that the imposition or adjustment ~~of the charge~~ is necessary.

(2) The board shall prepare a supplemental report to the annual report prepared pursuant to Section 26.5, explaining the reasons for the imposition or adjustment of the charge. The board shall file the supplemental report with the clerk of the board at least 45 days before the date the new or adjusted charge is proposed to take effect.

(3) (A) The clerk shall publish in a newspaper of general circulation published within the district, pursuant to Section 6061

of the Government Code, a notice of the receipt of the supplemental report and a hearing to be held on the proposed imposition or adjustment of the groundwater charge at least 31 days before the date on which the new or adjusted charge is proposed to take effect and at least 10 days before the date of the hearing.

(B) The notice shall invite any operator of a water-producing facility within the district and other interested parties to examine the supplemental report prepared pursuant to paragraph (2) at the district office.

(4) (A) A public hearing shall be held, at least 21 days before the date on which the new or adjusted groundwater charge is proposed to take effect, in the chambers of the board.

(B) Any operator of a water-producing facility within the district may, in person or by means of a representative, present evidence at the hearing concerning the imposition or adjustment of the groundwater charge.

(c) Any groundwater charge levied pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof.

(d) Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility ~~where~~ *if* the production of water ~~therefrom~~ is otherwise ~~property~~ *properly* charged, or in the making or extension of any charge upon the records ~~which~~ *that* do not affect the substantial rights of the assessee or assessees, shall not invalidate the groundwater charge.

SEC. 726. Section 45 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), as amended by Chapter 1130 of the Statutes of 1991, is amended to read:

Sec. 45. The board shall appoint a task force to recommend a water allocation formula for urban and agricultural areas in the county that are not within the jurisdiction of the Monterey Peninsula Water Management District and the Pajaro Valley Water Management Agency. An urban allocation formula is necessary to preserve agricultural access to an adequate water supply and to preserve agriculture as a mainstay of the Salinas Valley economy. The task force shall ~~made~~ *make* the recommendation to the agency on or before January 1, 1992.

SEC. 727. Section 510 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), as amended by Chapter 387 of the Statutes of 1988, is amended to read:

Sec. 510. The agency may do any of the following:

(a) Enter into contracts and employ and retain personal services. The board may cause construction or other work to be performed or carried out by contracts or by the agency under its own supervision.

(b) Contract for and perform contracts with public entities for the performance of administration of the agency and perform or contract for the performance of tests, studies, and investigations as necessary and proper to carry out the objects and purposes of the agency.

(c) All contracts for the construction of any unit of work estimated to cost over ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in accordance with Chapter 2 (commencing with Section ~~20100)~~ *22000)* of Part 3 of Division 2 of the Public Contract Code. If the cost of the project will not exceed ten thousand dollars ($10,000) the agency may have the work done by force account. The agency may purchase in the open market, without advertising for bids ~~thereof~~, materials ~~and~~, supplies, and professional services for use in any work either under contract or by force account.

(d) Create, establish, and maintain ~~such~~ offices and positions ~~as~~ *that* the board ~~may determine~~ *determines* are necessary and convenient for the transaction of the business of the agency.

SEC. 728. Section 408 of Chapter 688 of the Statutes of 1984 is amended to read:

SEC. 408. *(a)* All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in ~~the manner as provided~~ *accordance with this section*.

(b) The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district, inviting sealed proposals for the construction of the work before any contract shall be made ~~therefor~~, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds

to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection ~~therewith~~ *with the contract*. The board may reject any and all bids.

(c) If all proposals are rejected or no proposals are received pursuant to advertisement ~~therefor, or where~~ the estimated cost of the work does not exceed the sum of ten thousand dollars ($10,000), or ~~where~~ the work consists of channel protection, ~~or~~ maintenance work, or emergency work necessary ~~in order~~ to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids ~~therefor~~, have the work done by force account. The district may purchase in the open market, without advertising for bids thereof, materials and supplies for use in any work either under contract or by force account.

~~The provisions of this section have no application~~

(d) This section does not apply to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

(e) The district shall comply with Chapter 2 (commencing with Section ~~21000)~~ *22000)* of Part 3 of Division 2 of the Public Contract Code, which shall control over ~~the provisions of~~ this act to the extent of any inconsistency.

SEC. 729. Section 408 of Chapter 689 of the Statutes of 1984 is amended to read:

SEC. 408. *(a)* All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in ~~the manner as provided~~ *accordance with this section*.

(b) The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district, inviting sealed proposals for the construction of the work before any contract shall be made ~~therefor~~, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection ~~therewith~~ *with the contract*. The board may reject any and all bids.

(c) If all proposals are rejected or no proposals are received pursuant to advertisement ~~therefor, or where~~ the estimated cost of the work does not exceed the sum of ten thousand dollars ($10,000), or ~~where~~ the work consists of channel protection, ~~or~~ maintenance work, or emergency work necessary ~~in order~~ to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids ~~therefor~~, have the work done by force account. The district may purchase in the open market, without advertising for bids ~~thereof~~, materials and supplies for use in any work either under contract or by force account.

~~The provisions of this section have no application~~

(d) This section does not apply to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

(e) The district shall comply with Chapter 2 (commencing with Section ~~21000)~~ *22000)* of Part 3 of Division 2 of the Public Contract Code, which shall control over ~~the provisions of~~ this act to the extent of any inconsistency.

SEC. 730. Section 602 of Chapter 1023 of the Statutes of 1982 is amended to read:

Sec. 602. (a) The agency shall develop and adopt a lower aquifer management plan for future extractions from the lower aquifer system. As a part of this plan, the agency shall determine the hydrologic characteristics of the lower aquifer system in the following geographical areas:

(1) Las Posas Basin.

(2) Pleasant Valley Basin.

(3) Oxnard Plain Basin ~~(including forebay)~~, *including forebay*.

(4) Offshore area.

(b) For each ~~such~~ area *described in subdivision (a),* the lower aquifer system management plan shall estimate the following:

(1) Existing groundwater storage.

(2) The average annual change in storage for the period 1980–2010.

(3) Groundwater storage for the year 2010.

(4) Long-term recoverable storage, including an estimate of nonrecoverable storage.

(5) The expected adverse effects of projected extractions.

(c) The lower aquifer system management plan shall include a policy for the issuance of new well permits for lower aquifer system wells ~~which~~ *that* takes into consideration the location of proposed wells and area of use, projected extractions from the wells, and the effect of the extractions on existing users and on storage in the lower aquifer system. In developing the lower aquifer system management plan, the agency shall consider a ban on new irrigated acreage or new municipal water system wells. As a further part of the lower aquifer system management plan, the agency shall develop a contingency plan to deal with the possible occurrence of on-land seawater intrusion within the lower aquifer system. This contingency plan shall consider the possibility that new demands could result from upper aquifer system wells that may become inoperative.

(d) Notwithstanding any other provision of this act, the agency shall not regulate existing extraction from the lower aquifer system until the agency has completed and adopted its lower aquifer system management plan, unless it has determined at a noticed public hearing that there is evidence of inland seawater intrusion in the lower aquifer system or that there is less than 50 years of water supply remaining in any one of the groundwater basins listed in subdivision (a) ~~which~~ *that* comprise the lower aquifer system. If the agency makes the requisite findings and seeks to regulate extractions prior to adoption of the lower aquifer system management plan, it may regulate extractions from one or more of the groundwater basins comprising the lower ~~acquifer~~ *aquifer* system without having to regulate extractions from the others by adopting basin management plan. The impacts associated with regulating extractions within one or more basins upon all other basins in the system must be evaluated by the agency and incorporated in the basin management plan before it can be adopted and implemented.

SEC. 731. Section 87 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 399 of the Statutes of 1996, is amended to read:

Sec. 87. (a) The tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows:

(1) For the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient~~,~~ for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff, and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any ~~such~~ *of those* uses.

(6) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation

of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas.

(7) For the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.

(b) The district or its successors shall not, at any time, grant, convey, give, or alienate those lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever. However, the district, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease those lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from those leases, franchises, and privileges. Those lease or leases, franchises, and privileges may be for any and all purposes ~~which shall~~ *that do* not interfere with commerce and navigation.

(c) Those lands shall be improved without expense to the state. However, nothing in this section shall preclude expenditures for the development of those lands for any public purpose not inconsistent with commerce, navigation, and fishery, by the state, or any board, agency, or commission thereof, when authorized or approved by the district, or preclude expenditures by the district of any funds received for that purpose from the state or any board, agency, or commission thereof.

(d) In the management, conduct, operation, and control of those lands or any improvements, betterments, or structures thereon, the district or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments, or structures constructed upon those lands for any

vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on those lands with the right of convenient access to that water over those lands for that purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in those lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from ~~said~~ *those* lands.

(h) Those lands shall be held subject to the express reservation and condition that the state may at any time in the future use those lands or any portion for highway purposes without compensation to the district, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements, betterments, or structures have been placed upon the property taken by the state for those purposes, compensation shall be made to the district, its successors, or assigns, or any person, firm, or public or private corporation entitled thereto for the value of his or her or its interest in the improvements, betterments, or structures taken or the damages to that interest.

(i) The State ~~lands~~ *Lands* Commission, at the cost of the district, shall survey and monument those lands and record a description and plat thereof in the office of the County Recorder of San Diego County.

(j) *(1)* As to any tide and submerged lands conveyed to the district by a city that are subject to a condition contained in a grant of those lands to the city by the state that those lands shall be substantially improved within a designated period or else they shall revert to the state, that condition shall remain in effect as to those lands and shall be applicable to the district.

(2) As to any tide and submerged lands conveyed to the district by a city that are not subject to such a condition contained in a grant by the state and that have not heretofore been substantially improved, those lands, within 10 years from July 12, 1962, shall be substantially improved by the district without expense to the state. If the State Lands Commission determines that the district has failed to improve the lands as herein required,

all right, title, and interest of the district in and to those lands shall cease and the lands shall revert and rest in the state.

SEC. 732. Section 5.5 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), as added by Chapter 234 of the Statutes of 1978, is amended to read:

Sec. 5.5. (a) In addition to the powers described elsewhere in this act, the district shall have the power by ordinance or resolution, subject to referendum pursuant to Article 2 (commencing with Section ~~5200)~~ *9340)* of Chapter 4 of Division ~~4~~ *9* of the Elections Code, to prescribe, revise, and collect fees and charges in any zone, established pursuant to Section 3 or Section 11, as a condition of development of land. Land to be developed within a zone shall be subject to the fees and charges of the zone in which it is located. Development of land for the purposes of this section shall include, but not be limited to, subdivision development as governed by the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code); construction of new buildings, structures, and improvements for residential, commercial, or industrial purposes; and any development of land requiring either zone variance or special use permit. The amount of fees and charges levied for each zone shall be determined separately and shall be based upon the need created by development of land for flood control facilities within the zone. The amount of fees and charges levied for any zone shall not exceed five hundred dollars ($500) for each acre or portion ~~thereof~~ *of an area* of land to be developed. Fees and charges prescribed as a condition of development of land pursuant to this section shall be in addition to any other conditions imposed on ~~such~~ *that* development by any other agency having power to prescribe ~~such~~ other conditions.

(b) Except as ~~hereinafter~~ *otherwise* provided *in this act*, revenues derived from fees and charges prescribed for any zone may be used only for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation of flood control or storm drainage facilities, or the installation or maintenance of landscaping as authorized by Section 5.4, within ~~such~~ *that* zone, or used to pay the interest on or reduce the principal of any bonded indebtedness of ~~such~~ *that* zone.

(c) Whenever the development of land within any zone is made subject to fees and charges by the board of directors pursuant to this section, ~~said~~ *the* board of directors may allow a credit against ~~such~~ *those* fees for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation costs of any flood control or storm drain facility within ~~such~~ *that* zone ~~which~~ *that* has been constructed or paid for in connection with the development of land within ~~such~~ *that* zone. The board of directors may also reduce fees or charges prescribed for any part of the land to be developed within ~~such~~ *that* zone if ~~they find~~ *it finds* that because of special circumstances the payment ~~thereof~~ would be inequitable or would cause undue hardship and the reduction of ~~such~~ *the* fees would be in the public interest.

(d) The consent and approval of the legislative body of a city shall be necessary before any fees or charges may be levied on the development of land located within the corporate boundaries of a city ~~which~~ *that* are higher than any fees or charges levied on the development of land outside and contiguous to the corporate boundaries of ~~such~~ *that* city.

SEC. 733. Section 13 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970) is amended to read:

Sec. 13. Except as otherwise provided in this act, the formation election shall be conducted in accordance with the general election laws of this state so far as applicable. An election called pursuant to ~~the provisions of~~ this act may be consolidated with any other election pursuant to ~~the provisions of Chapter 4 (commencing with Section 23300) of~~ Part ~~2~~ *3 (commencing with Section 10400)* of Division ~~12~~ *10* of the Elections Code.

SEC. 734. Section 16 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970) is amended to read:

Sec. 16. Except as otherwise provided in this act, ~~the provisions of~~ the Uniform District Election Law (Part ~~3~~ *4* (commencing with Section ~~23500)~~ *10500)* of Division ~~12~~ *10* of the Elections Code), shall be applicable to general district elections of elected members of the board.

SEC. 735. Any section of any act enacted by the Legislature during the 2006 calendar year that takes effect on or before

January 1, 2007, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2006 calendar year and takes effect on or before January 1, 2007, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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