AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1869

Introduced by Assembly Member Anderson

February 4, 2008

~~An act relating to state boards and commissions.~~ *An act to amend Sections 27, 101, 112, 116, 120, 123.5, 124, 125.5, 126, 128.5, 144, 149, 473.3, 1601.1, 1618.5, 1619, 1620.1, 1741, 1742, 2020, 2460, 2460.1, 2461, 2470, 2475.2, 2475.3, 2479, 2480, 2481, 2483, 2484, 2486, 2488, 2492, 2493, 2496, 2497, 2497.5, 2498, 2499, 2499.5, 2499.6, 2499.8, 2530.2, 2531.02, 2531.3, 2531.4, 2531.5, 2531.95, 2538, 2538.1, 2570.2, 2570.20, 2570.30, 2601, 2602, 2602.1, 2605, 2607, 2608.5, 2609, 2613, 2614, 2615, 2632, 2701, 2708.1, 2709.5, 2710.5, 2713, 2715, 2717, 2841, 2841.1, 2854, 2857, 2858, 2878.1, 2895.5, 2902, 2915.5, 2915.7, 2920, 2920.1, 2930, 2930.5, 2931, 2933, 2934, 2936, 2987.2, 2987.3, 3004, 3010.1, 3018, 3019, 3023, 3024, 3025, 3025.1 3025.2, 3025.5, 3025.6, 3026, 3027, 3028, 3055, 3075, 3300, 3501, 3504.1, 3509, 3510, 3512, 3519.5, 3704, 3710, 3710.1, 3716, 3717, 3718, 3719, 3719.5, 3722, 3766, 3767, 3768, 3769.3, 3778, 4001.1, 4115, 4116, 4501, 4501.1, 4502.2, 4503, 4504, 4505, 4507, 4509.5, 4521.2, 4800.1, 4808, 4809, 4809.5, 4809.6, 4809.7, 4810,4826, 4828, 4830, 4833, 4836, 4836.5, 4837, 4838, 4839, 4841.5, 4842, 4842.1, 4842.2, 4842.5, 4842.6, 4843, 4843.5, 4844, 4846, 4846.1, 4846.2, 4846.4, 4846.5, 4847, 4848, 4848.3, 4849, 4852, 4853, 4853.1, 4853.5, 4853.6, 4854, 4855, 4856, 4860, 4861, 4865, 4866, 4868, 4871, 4872, 4873, 4875, 4875.2, 4875.4, 4875.6, 4876, 4881, 4883, 4885, 4886, 4887, 4900, 4901, 4902, 4904, 4905, 4916, 4925, 4927, 4928, 4928.1, 4933, 4934, 4935, 4938, 4939, 4940, 4941, 4944, 4974, 4979, 4980.03, 4980.07, 4980.30, 4980.34, 4980.35, 4980.38, 4980.39, 4980.395, 4980.40, 4980.43, 4980.44, 4980.50, 4980.54, 4980.57,*

4980.60, 4980.70, 4980.80, 4980.90, 4981, 4982, 4982.05, 4984, 4984.01, 4984.5, 4984.6, 4984.7, 4984.75, 4984.8, 4984.9, 4987.5, 4989.12, 4989.16, 4989.18, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, 4989.30, 4989.32, 4989.34, 4989.40, 4989.44, 4989.46, 4989.54, 4989.56, 4989.58, 4989.62, 4989.64, 4989.68, 4989.70, 4990.12, 4990.18, 4990.20, 4990.22, 4990.24, 4990.26, 4990.28, 4990.34, 4990.36, 4990.38, 4990.40, 4994, 4996.1, 4996.2, 4996.3, 4996.5, 4996.6, 4996.11, 4996.17, 4996.18, 4996.20, 4996.21, 4996.22, 4996.23, 4996.25, 4996.26, 4996.28, 4996.65, 4997, 5008, 5009, 5010, 5013, 5015, 5018, 5020, 5022, 5023, 5024, 5025.1, 5026, 5027, 5028, 5029, 5084, 5133, 5150, 5525, 5526, 5528, 5620, 6715, 6716, 6717, 6718, 6719, 6726, 6726.1, 6728, 6728.1, 6728.4, 6728.5, 6728.6, 6730, 7000.5, 7011.3, 7011.4, 7011.5, 7011.7, 7012, 7019, 7208, 7209, 7210.5, 7210.6, 7210.7, 7211, 7211.1, 7211.2, 7211.9, 7214, 7215.5, 7215.6, 7216, 7217, 7302, 7303, 7303.1, 7303.2, 7312, 7313, 7314, 7581.2, 7581.3, 7591.8, 7591.9, 7591.10, 7591.11, 7591.19, 7801, 7810.1, 7818, 7819, 7821, 7822, 7823, 7825, 7840, 7850.5, 7850.6, 7855, 8000, 8003, 8004, 8005.1, 8008, 8520, 8520.1, 8525, 8706, 8710, 8711, 8712, 8715, 8715.1, 8720, 8720.1, 8720.4, 8720.5, 8720.6, 10147, 10149, and 19164 of, to amend and repeal Sections 125.3 and 4945 of, to add Sections 100.5, 4001, and 4990.1 to, to repeal Sections 102.2, 1616.5, 1743, 1744, 1745, 1746, 1746.1, 1748, 1749, 2002, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2019, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2495, 2531, 2531.05, 2531.1, 2531.2, 2531.6, 2531.7, 2531.75, 2531.8, 2531.9, 2570.19, 2570.21, 2603, 2604, 2604.5, 2606, 2607.5, 2611, 2612, 2702, 2703, 2706, 2707, 2708, 2709, 2710, 2712, 2714, 2716, 2842, 2843, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2855, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2927.5, 2928, 2929, 2935, 3010.5, 3011, 3013, 3014, 3014.6, 3016, 3017, 3321, 3325, 3504, 3505, 3506, 3507, 3508, 3509.5, 3511, 3711, 3712, 3713, 3715, 3720, 4002, 4003, 4004, 4018, 4800, 4801, 4802, 4803, 4804, 4804.5, 4805, 4806, 4807, 4834, 4929, 4930, 4931, 4934.1, 4934.2, 4990, 4990.10, 4990.14, 5000.1, 5000.5, 5001, 5002, 5003, 5004, 5006, 5007, 5011, 5012, 5015.6, 5016, 5017, 5025.2, 5025.3, 5030, 5510, 5514, 5515, 5516, 5517, 5518, 5520, 5521, 5522, 5523, 5524, 5620.1, 5621, 5622, 5624, 5626, 6711, 6712, 6713, 6714, 6720, 7001, 7002, 7003, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7013, 7015, 7016, 7200, 7200.1, 7200.5, 7207, 7304, 7305, 7309, 7311, 7315, 7581.1, 7581.4, 7591.17, 7591.18, 7591.20, 7810, 7811, 7815, 7815.5, 7816, 7817, 7820, 8001, 8002, 8005, 8502, 8521, 8522, 8523, 8524, 8526,

8527, and 12541 of, and to repeal and add Sections 2001, 4001, 4832, 5000, 5502, 6710, 7201, 7202, 7203, 7204, 7205, 7206, and 8707 of, the Business and Professions Code, to amend Sections 56.30 and 2079.11 of the Civil Code, to amend Sections 1245.210 and 1245.250 of the Code of Civil Procedure, to amend Sections 1330, 11001, 17250.40, 17280.5, 17317, 19952, 19972, 19986, 20002, 32282, 35296, 49116, 66021.2, 66022, 66900, 66902, 66903, 66903.2, 66903.3, 66904, 66905, 67312, 67382, 68120.5, 69432.7, 69432.8, 69432.9, 69433, 69433.5, 69433.7, 69434, 69434.5, 69435, 69435.3, 69436, 69437, 69437.3, 69437.6, 69437.7, 69439, 69440, 69506.5, 69507.5, 69508, 69509, 69509.5, 69511, 69513, 69514, 69517, 69517.5, 69518, 69522, 69522.5, 69523, 69525, 69526, 69527, 69528, 69529, 69529.5, 69532, 69533, 69534.1, 69534.4, 69535, 69535.5, 69537, 69538, 69539, 69540, 69541, 69544, 69546, 69546.5, 69547, 69561, 69612, 69613, 69613.1, 69613.2, 69613.4, 69613.5, 69613.6, 69614, 69615, 69615.4, 69615.6, 69620, 69622, 69623, 69625, 69626, 69627, 69740, 69741, 69741.5, 69742, 69743.5, 69744, 69745, 69761, 69761.5, 69761.7, 69763, 69763.1, 69763.2, 69763.3, 69763.4, 69764, 69765, 69766, 69766.1, 69768, 69769.3, 69772, 69774, 69775, 69776, 69776.5, 69777, 69951, 69952, 69954, 69958, 69959, 69965, 69966, 69967, 69969, 81706, 89347, 89529.15, and 94155 of, to amend the heading of Article 2 (commencing with Section 69510) of Chapter 2 of Part 42 of, to amend the heading of Chapter 11 (commencing with Section 66900) of Part 40 of, to add Article 1.5 (commencing with Section 66910) to Chapter 11 of Part 40 of, to repeal Sections 8480, 66901, 66906, 69510, 69511.5, 69512, 69513.1, 69513.5, 69515, 69562, 69769, 69769.5, and 69769.7 of, and to repeal Article 14 (commencing with Section 8286) of Chapter 2 of Part 6 of, the Education Code, to amend Sections 5002 and 17400 of the Family Code, to repeal Article 5 (commencing with Section 14380) of Chapter 3 of Division 5 of the Financial Code, to amend Sections 2192 and 2765 of the Fish and Game Code, to repeal Section 54451.5 of, and to repeal Article 3 (commencing with Section 54442) of Chapter 2 of Division 20 of, the Food and Agricultural Code, to amend Sections 4450, 4451, 4459, 4560, 6276.48, 8587.7, 8601, 8670.24, 8690.45, 8870, 8870.1, 8870.5, 8870.55, 8870.6, 8870.7, 8870.71, 8870.95, 8878.52, 8894, 8920, 11041, 11121.1, 11126, 11343, 11346.1, 11351, 11356, 11435.15, 11435.25, 11553, 11553.5, 11555, 11556, 11564, 12420.2, 12813, 13332.16, 14502, 14617, 15853, 15855, 19878, 20130, 21164, 21166, 21167, 21168, 21169, 21170, 21171, 21174, 21430, 21537, 21537.5, 21538, 21540, 21540.5, 21544, 22820, 53115.2, 65915,

and 87406 of, to amend the heading of Chapter 12 (commencing with Section 8870) of Division 1 of Title 2 of, to add Sections 14652, 15563, and 63029 to,to repeal Sections 8870.2, 8870.3, 8870.35, 8870.4, 11033.5, 12231, and 65054.5 of, to repeal Article 1 (commencing with Section 8260) of Chapter 3.5 of Division 2 of, to repeal Chapter 3.3 (commencing with Section 8255) of Division 1 of Title 2 of, to repeal Chapter 2 (commencing with Section 14999) of Part 5.7 of Division 3 of Title 2 of, and to repeal and add Section 53115.1 of, the Government Code, to amend Sections 62.9, 63.6, 71.7, 72.6, 76.5, 1106, 1125, 1126, 1127, 1130, 1131, 1136, 1137, 1162, 1163, 1164, 1166, 1167, 1168, 1170, 1170.1, 1170.2, 1170.3, 1171, 1171.5, 1172, 1173, 1174, 1175, 1176, 1179, 1180, 1180.3, 1180.6, 1181, 1182, 1183, 1190, 1191, 1195, 1196, 1200, 1201, 1201.5, 1203, 6276, 6869, and 6901.1 of, to amend the heading of Division 1 (commencing with Section 30) of, to add Sections 63 and 63.3 to, to repeal Sections 31, 704, and 1184 of, to repeal Chapter 3 (commencing with Section 80) of Division 1 of, to repeal and add Section 1111 of, and to repeal and add Chapter 2 (commencing with Section 1150) of Division 5 of, the Harbors and Navigation Code, to amend Sections 1179.1, 1179.3, 1179.5, 1276.05, 1569.698, 1569.699, 1596.87, 1797.64, 13108, 13132.7, 13142.6, 13143.5, 16022, 16101, 16109, 16600, 16601, 17913, 17920.9, 17921, 17958, 17958.7, 17959, 17959.6, 18613.5, 18901, 18907, 18914, 18926, 18927, 18928, 18928.1, 18929, 18929.1, 18930, 18931, 18931.5, 18932, 18933, 18934, 18934.5, 18934.7, 18934.8, 18935, 18938, 18944.41, 18947, 18949.4, 18958, 18960, 19164, 19881, 19958.6, 25150, 25244.15.1, 25250.1, 50668.5, 50671.6, 51614, 55100, 57102, 105405, 116064, 118505, 127785, 127929, 128030, 128445, 128705, 128720, 128760, 128765, 128770, 129850, 129940, 130005, 130020, and 130063 of, to amend the heading of Article 2 (commencing with Section 13140) of Chapter 1 of Part 2 of Division 12 of, to amend the heading of Chapter 3 (commencing with Section 18930) of Part 2.5 of Division 13 of, to add Section 1179.15 to, to repeal Sections 1596.873, 13140.5, 13140.6, 13140.7, 13141, 13142.8, 18912, 44021, 128710, and 128715 of, to repeal Article 1 (commencing with Section 18920) and Article 2 (commencing with Section 18925) of Chapter 2 of Part 2.5 of Division 13 of, to repeal and add Sections 13140 and 128695 of, and to repeal and add Article 1 (commencing with Section 1799) of Chapter 8 of Division 2.5 of, the Health and Safety Code, to amend Sections 1063.1, 11659, 11698.1, 11698.2, 12693.91, 12975.8, and 12975.9 of the Insurance Code, to amend Sections 53, 74, 96, 98, 98.3, 110, 111, 127.6,

138.7, 139.2, 142.3, 148, 148.1, 148.2, 148.6, 204.3, 226, 226.7, 350, 511, 512, 512.5, 515, 516, 554, 558, 1030, 1173, 1174, 1174.5, 1175, 1176, 1176.1, 1176.3, 1177, 1178, 1178.5, 1179, 1180, 1181, 1182, 1182.1, 1182.4, 1182.5, 1182.6, 1182.7, 1182.8, 1182.11, 1183, 1184, 1185, 1186, 1187, 1188, 1190, 1191, 1191.5, 1192, 1193, 1193.5, 1193.6, 1194.2, 1195, 1195.5, 1197, 1197.1, 1198, 1198.3, 1198.4, 1199, 1200, 1201, 1202, 1203, 1204, 1391, 1391.2, 1400, 1684, 2695.2, 3205.5, 3550, 3551, 4651, 4709,4728, 5307.27, 5401, 6101, 6354.7, and 6359 of, to add Section 148.01 to, to repeal Sections 70, 70.1, 71, 72, 73, 112, 113, 115, and 116 of, and to repeal and add Chapter 3 (commencing with Section 75) of Division 1 of, the Labor Code, to amend Sections 1302, 1303, 1304, 1306, 1307, 1333, 1334,1335, 1338, 1340, and 1341 of, to add Sections 87 and 1500 to, to repeal Sections 1301, 1331 and 1332 of, to repeal and add Sections 1300 and 1330 of, the Military and Veterans Code, to amend Sections 10340 and 12301 of the Public Contract Code, to amend Sections 700, 740, 741, 743, 745, 759, 760, 762, 763, 765, 767, 768, 769, 770, 772, 774, 775, 776, 777, 778, 778.5, 782, 783, 2008, 2630, 2693, 2701, 2702, 2707, 2709.1, 2714, 2802, 2803, 2804, 2806, 2807, 2811, 3460, 3477.1, 4002, 4521.3, 4662, 4789.2, 5070.3, 5074, 5093.52, 6327, 12220, 15004, 25301, 25302, 25402.1, 25402.2, 25417.5, 25443.5, 25534, 25605.5, 25770, 44202, 71017, 71069.5, and 71113 of, to amend the heading of Article 2 (commencing with Section 730)of Chapter 2.5 of Division 1 of, to repeal Sections 731, 731.1, 732, 735, 736, 737, 738, 739, 760.5, and 5073.7 of, to repeal and add Sections 730, 5073.5, and 40110 of, to repeal and add Article 2 (commencing with Section 660) of Chapter 2 of Division 1 of, and to repeal and add Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of, the Public Resources Code, to amend Sections 331, 335, 337, 338, 339, 340, 341, 341.2, 341.4, 341.5, 348, 350, 352, 372, 464, 761.3, 132355.4, 185012, 185030, 185032, 185034, 185036, and 185038 of, to add Section 185025 to, to repeal Sections 341.3, 185020, 185022, and 185024 of, to repeal and add Section 336 of, and to repeal and add Division 1.5 (commencing with Section 3300) of, the Public Utilities Code, to amend Sections 431, 17053.34, 17053.46, 17053.47, 17053.74, 19533, 19557, 23622.7, 23622.8, 23634, 23646, and 24357.8 of the Revenue and Taxation Code, to amend Sections 101.3 and 30914.5 of the Streets and Highways Code, to amend Sections 401 and 10529of, and to repeal Section 402 of, the Unemployment Insurance Code, to amend Sections 5024, 22511.11, and 34501.9 of the Vehicle Code, to amend Sections 7045, 7047, 8402,

8403, 8404, 8412, 8413, 8414, 8414.2, 8415, 8451, 8454, 8455, 8456, 8502, 8521, 9251, 10005.1, 12232, 12310, 12313, 12551, 12552, 12553, 12602, 12604.3, 12634.3, 12879.5, 12879.9, 12886.4, 12891.4, 12980, 12984, 12985, 12986, 12987, 12987.5, 12988, 12990, 12991, 12992, 12994, 12995, 13578, 50653, 51021, 51022, 51023, 51024, 51025, 51026, 51027, 51028, 51029, 51234, 73502, 73505, 73512, 79068.6, 79068.8, 79068.10, and 79068.20 of, to amend the heading of Part 4 (commencing with Section 8520) of Division 5 of, to amend the heading of Part 5 (commencing with Section 9250) of Division 5 of, to amend the heading of Part 5 (commencing with Section 12500) of Division 6 of, to amend and renumber Section 9260 of, to amend and renumber the heading of Chapter 5 (commencing with Section 12550), Chapter 6 (commencing with Section 12553), and Chapter 7(commencing with Section 12560) of Part 5 of Division 6 of, to add Sections 9260, 12571.5, and 12578.5 to, to repeal Sections 8452, 12501, 12502, 12892, and 12928.2 of, to repeal Chapter 3 (commencing with Section 12525) and Chapter 4 (commencing with Section 12540) of Part 5 of Division 6 of, to repeal and add Article 2 (commencing with Section 150) of Chapter 2 of Division 1 of, to repeal and add Chapter 2 (commencing with Section 8550) of Part 4 of Division 5 of, and to repeal and add Chapter 2 (commencing with Section 12510) of Part 5 of Division 6 of, the Water Code, and to amend Sections 4341.5, 4421, and 16001.9 of the Welfare and Institutions Code, relating to state government organization.

LEGISLATIVE COUNSEL'S DIGEST

AB 1869, as amended, Anderson. State boards and commissions: reorganization.

(1) Existing law establishes within the Department of Consumer Affairs various boards and committees that are responsible for the regulation of architects, barbers and cosmetologists, geologists and geophysicists, accountants, contractors, court reporters, engineers and land surveyors, landscape architects, structural pest control companies, guide dogs for the blind, veterinarians, and various practitioners of the healing arts. Existing law also establishes the Alarm Company Operator Disciplinary Review Committee, the Committee on Dental Auxiliaries, the Physician Assistant Committee, the Registered Veterinary Technician Committee, the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, 2 private security disciplinary review committees, and a service agency advisory committee.

This bill would abolish each of those boards and committees and transfer all of their respective duties, responsibilities, obligations, liabilities, and jurisdiction (hereafter, duties) to the department.

(2) Existing law establishes the High-Speed Rail Authority, comprised of 9 members, as specified, that is responsible for directing the development and implementation of intercity high-speed rail service, as specified.

This bill would abolish that authority and transfer all of its duties to the California Transportation Commission.

(3) Existing law, the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. The act establishes the 17-member California Postsecondary Education Commission (CPEC) for, among other purposes, the collection of data pertinent to the planning and coordination of the higher education system of the state.

Existing law establishes the Student Aid Commission as the primary state agency for the administration of state-authorized student financial aid programs. Existing law requires the Student Aid Commission to establish a Loan Advisory Council, which is responsible for the review of the policies and activities of the Federal Family Education Loan Program and for advising the commission of its findings and recommendations.

This bill would repeal the provisions that establish the CPEC, the Student Aid Commission, and the Loan Advisory Council. The plan would establish the Office of Higher Education and Financial Aid, and require that all of the functions performed under existing law by the CPEC, the Student Aid Commission, and the Loan Advisory Council instead be performed by the Office of Higher Education and Financial Aid.

(4) Existing law establishes the Seismic Safety Commission with various responsibilities related to seismic safety. Existing law establishes the California Building Standards Commission and prescribes procedures for the approval of building standards and the publication of the California Building Standards Code.

This bill would abolish the Seismic Safety Commission and the California Building Standards Commission and transfer their duties to the Department of General Services. The bill would also abolish the 911 Advisory Board, the Vietnam Veterans Memorial Commission, the Mexican American Veterans' Memorial Beautification Enhancement

Commission and transfer their duties to the Department of General Services.

(5) Existing law establishes in the Employment Development Department the Unemployment Insurance Appeals Board to review the decisions of administrative law judges regarding petitions for unemployment insurance benefits. Existing law establishes within the Labor and Workforce Development Agency the California Occupational Safety and Health Appeals Board to conduct hearings when an employer served with a special order relating to occupational safety and health appeals that order and the Workers' Compensation Appeals Board which has jurisdiction to determine workers' compensation claims of an employee for injuries sustained in the course of his or her employment.

This bill would abolish the Unemployment Insurance Appeals Board, the California Occupational Safety and Health Appeals Board, and the Workers' Compensation Appeals Board and transfer their duties to the Employment and Benefits Appeals Board. The bill would abolish the Commission on Health and Safety and Workers' Compensation and the Industrial Welfare Commission and transfer their duties to the Labor and Workforce Development Agency. The bill would repeal the authority of the Industrial Welfare Commission to set the minimum wage and would abolish that commission and transfer its remaining duties to the Labor and Workforce Development Agency.

(6) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide.

The existing restructuring of the electrical services industry establishes the Electricity Oversight Board (Oversight Board) to oversee the Independent System Operator and the Power Exchange in order to ensure the success of the electrical industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. Existing law prescribes the powers and responsibilities of the Oversight Board.

This bill would abolish the Oversight Board and transfer its duties to the Energy Commission. The bill would make conforming changes to provisions relating to the duties of the Oversight Board.

(7) Existing law establishes the California Consumer Power and Conservation Financing Authority, with powers and responsibilities as prescribed, including the issuance of revenue bonds, for the purposes of augmenting electric generating facilities and to ensure a sufficient and reliable supply of electricity, financing incentives for investment in cost-effective energy-efficient appliances and energy demand reduction, achieving a specified energy capacity reserve level, providing financing for the retrofit of inefficient electric powerplants, renewable energy, and conservation, and, where appropriate, developing strategies for the authority to facilitate a dependable supply of natural gas at reasonable prices to the public.

This bill would abolish the California Consumer Power and Conservation Financing Authority and transfer its duties to the Energy Commission.

(8) Existing law contains the California Library Construction and Renovation Bond Act of 1988 and the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000, which authorize the issuance of bonds, pursuant to the State General Obligation Bond Law, in the amount of $75,000,000 and $350,000,000 respectively, for the purpose of financing library construction and renovation. The 1988 act creates the California Library Construction and Renovation Board, composed of specified members, and the 2000 act creates the California Public Library Construction and Renovation Board, composed of specified members to, among other things, review and approve applications for grants under the acts.

This bill would transfer the duties of both boards to the Board of Directors of the California Infrastructure and Economic Development Bank.

(9) Existing law establishes the Inspection and Maintenance Review Committee and the Commission on Uniform State Laws.

This bill would eliminate the committee and the commission.

(10) Existing law establishes the 9-member California Water Commission in the Department of Water Resources and requires the commission to conduct an annual review of the progress and operation of the State Water Project and to carry out various other related functions.

Existing law establishes the Central Valley Flood Protection Board. Existing law authorizes the board to engage in various flood control activities along the Sacramento River, San Joaquin River, their tributaries, and related areas. Existing law requires the board to

establish and enforce standards for the maintenance and operation of, and to undertake other responsibilities with regard to, flood control works under its jurisdiction.

Existing law establishes the 8-member Colorado River Board of California in the Resources Agency and requires that board to carry out certain functions relating to the Colorado River.

This bill would eliminate the California Water Commission, the Central Valley Flood Protection Board, and the Colorado River Board of California and transfer the duties undertaken by the commission and those boards to the Department of Water Resources.

(11) Existing law establishes the Office of Rural Health, the Rural Health Policy Council, the State Board of Forestry and Fire Protection, the Boating and Waterways Commission, the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, the State Mining and Geology Board, the California Recreational Trails Committee, the California Integrated Waste Management Board, the Commission on Emergency Medical Services, the Heart Disease and Stroke Prevention and Treatment Task Force, and the Health Policy and Data Advisory Commission and the State Board of Fire Services.

This bill would also abolish these boards, commissions, committees, councils, and offices, and transfer their duties to the department, agency, or authority, as specified: (a) the Office of Rural Health to the State Department of Health Care Services; (b) the Rural Health Policy Council to the State Department of Health Care Services; (c) the State Board of Forestry and Fire Protection to the Department of the Forestry and Fire Protection; (d) the Boating and Waterways Commission to the Department of Boating and Waterways; (e) the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, to the Department of Consumer Affairs; (f) the State Mining and Geology Board to the Department of Conservation; (g) California Recreational Trails Committee to the Department of Parks and Recreation; (h) the California Integrated Waste Management Board to the California Environmental Protection Agency; (i) the Commission on Emergency Medical Services to the Emergency Medical Services Authority; (j) the Health Policy and Data Advisory Commission to the Office of Statewide Health Planning and Development; and (k) the State Board of Fire Services to the Department of Forestry and Fire Protection.

(12) Existing law establishes the Credit Union Advisory Committee, the Inspection and Maintenance Review Committee, an agriculture

bargaining association advisory committee, and an advisory committee on child development programs.

This bill would abolish each of these advisory bodies.

~~Existing law establishes various boards and commissions in state government.~~

~~This bill would declare the intent of the Legislature to effect the changes proposed by the California Performance Review to eliminate and consolidate various state boards and commissions.~~

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

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) ~~Every~~ *The department and each* entity specified in subdivision (b), ~~on or after July 1, 2001,~~ shall provide on the Internet information regarding the status of every license issued by *the department or* that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the *department or* entity and other related enforcement action taken by the *department or* entity relative to persons, businesses, or facilities subject to licensure or regulation by the *department or* entity. In providing information on the Internet, each *department or* entity shall comply with the ~~Department of Consumer Affairs~~ Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each *department or* entity shall disclose a licensee's address of record. However, each *department or* entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude *the department or* an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a

physical business address or residence address only for the *department's or* entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the ~~Department of Consumer Affairs~~ *department* shall comply with the requirements of this section:

~~(1) The Acupuncture Board shall disclose information on its licensees.~~

~~(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.~~

~~(3) The Dental Board of California shall disclose information on its licensees.~~

~~(4) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of their licensees.~~

~~(5) The Board for Professional Engineers and Land Surveyors shall disclose information on its registrants and licensees.~~

~~(6) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.~~

~~(7)~~

(1) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

~~(8)~~

(2) The Bureau of Electronic and Appliance Repair shall disclose information on its licensees, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

~~(9)~~

(3) The Cemetery ~~Program~~ *and Funeral Bureau* shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, crematories, and cremated remains disposers.

~~(10)~~

(4) The ~~Funeral Directors and Embalmers Program~~ *Cemetery and Funeral Bureau* shall disclose information on its licensees, including embalmers, funeral establishments, and funeral directors.

~~(11)~~

(5) The ~~Contractors' State License Board~~ *department* shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the ~~board~~ *department* shall also disclose information provided to the ~~board~~ *department* by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

~~(12)~~

(6) The ~~Board of Psychology~~ *department* shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

SEC. 2. Section 100.5 is added to the Business and Professions Code, to read:

100.5. (a) The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of all of the following entities, which are hereby abolished and shall no longer exist and shall be known as predecessor entities:

(1) The Acupuncture Board.

(2) The Alarm Company Operator Disciplinary Review Commission.

(3) The California Architects Board.

(4) The Board of Barbering and Cosmetology.

(5) The State Board of Registration for Geologists and Geophysicists.

(6) The California Board of Accountancy.

(7) The Board of Behavioral Sciences.

(8) The Dental Board of California.

(9) The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

(10) The California Board of Podiatric Medicine.

(11) The Board of Psychology.

(12) The Board of Registered Nursing.

(13) The California State Board of Pharmacy.

(14) The Committee on Dental Auxiliaries.
(15) The Contractors' State License Board.
(16) The Court Reporters Board of California.
(17) The Board for Professional Engineers and Land Surveyors.
(18) The Landscape Architects Technical Committee.
(19) The Medical Board of California.
(20) The California Board of Occupational Therapy.
(21) The Physical Therapy Board of California.
(22) The Physician Assistant Committee.
(23) The private security disciplinary review committees established pursuant to former Section 7581.1.
(24) The Registered Veterinary Technician Committee.
(25) The Respiratory Care Board of California.
(26) The service agency advisory committee established pursuant to Section 12541.
(27) The Speech–Language Pathology and Audiology Board.
(28) The State Board of Guide Dogs for the Blind.
(29) The State Board of Optometry.
(30) The Structural Pest Control Board.
(31) The Veterinary Medical Board.
(32) The Bureau of Vocational Nursing and Psychiatric Technicians.
(b) All officers and employees of the predecessor entities who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from civil service.
(c) The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the predecessor entities.
(d) Any regulation or other action, adopted, prescribed, taken, or performed by a predecessor entity or officer in the administration of a program or the performance of a duty,

responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the department.

(e) No suit, action, or other proceeding lawfully commenced by or against any predecessor entity or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

(f) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of the enactment of the act adding this section, but shall continue in full force and effect, with the department assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the department shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the department. Any ongoing obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the department without impairment to any security contained in the bond instrument.

SEC. 3. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

~~(a) The Dental Board of California.~~

~~(b) The Medical Board of California.~~

~~(c) The State Board of Optometry.~~

~~(d) The California State Board of Pharmacy.~~

~~(e) The Veterinary Medical Board.~~

~~(f) The California Board of Accountancy.~~

~~(g) The California Architects Board.~~

~~(h) The Bureau of Barbering and Cosmetology.~~

~~(i) The Board for Professional Engineers and Land Surveyors.~~

~~(j) The Contractors' State License Board.~~

~~(k)~~

(a) The Bureau for Private Postsecondary and Vocational Education.

~~(*l*) The Structural Pest Control Board.~~
~~(m)~~
(b) The Bureau of Home Furnishings and Thermal Insulation.
~~(n) The Board of Registered Nursing.~~
~~(o) The Board of Behavioral Sciences.~~
~~(p)~~
(c) The State Athletic Commission.
~~(q)~~
(d) The Cemetery and Funeral Bureau.
~~(r) The State Board of Guide Dogs for the Blind.~~
~~(s)~~
(e) The Bureau of Security and Investigative Services.
~~(t) The Court Reporters Board of California.~~
~~(u) The Board of Vocational Nursing and Psychiatric Technicians.~~
~~(v) The Landscape Architects Technical Committee.~~
~~(w)~~
(f) The Bureau of Electronic and Appliance Repair.
~~(x)~~
(g) The Division of Investigation.
~~(y)~~
(h) The Bureau of Automotive Repair.
~~(z) The State Board of Registration for Geologists and Geophysicists.~~
~~(aa) The Respiratory Care Board of California.~~
~~(ab) The Acupuncture Board.~~
~~(ac) The Board of Psychology.~~
~~(ad) The California Board of Podiatric Medicine.~~
~~(ae) The Physical Therapy Board of California.~~
~~(af)~~
(i) The Arbitration Review Program.
~~(ag) The Committee on Dental Auxiliaries.~~
~~(ah)~~
(j) The Hearing Aid Dispensers Bureau.
~~(ai) The Physician Assistant Committee.~~
~~(aj) The Speech-Language Pathology and Audiology Board.~~
~~(ak) The California Board of Occupational Therapy.~~
~~(a*l*)~~
(k) The Osteopathic Medical Board of California.
~~(am)~~

(l) The Bureau of Naturopathic Medicine.

~~(an)~~

(m) Any other boards, offices, or officers subject to its jurisdiction by law*, including any bureau or office that may be created upon abolition of any board the functions of which the department succeeds to. Any bureau or office so created shall be under the supervision and control of the director*.

SEC. 4. Section 102.2 of the Business and Professions Code is repealed.

~~102.2. (a) If the Structural Pest Control Board does not comply with the contingencies specified in paragraphs (a) to (d), inclusive, of Provision 1 of Item 1530-001-0775 of the Budget Act of 1995 by January 1, 1996, as determined by the Department of Consumer Affairs, then the department may succeed to and is vested with all the duties, powers, purpose, responsibilities, and jurisdiction of the board, including the employment of one executive director for the purposes of performing the department obligations herein.~~

~~(b) If the department elects to not exercise control over the board pursuant to subdivision (a), the department shall monitor the board on a monthly basis and the Controller shall, on a monthly basis, transfer the necessary amount of funds, not to exceed one-sixth of the amount of the appropriation for each fund identified in subdivision (c), to the board for the purpose of this subdivision. If at any time the department determines that the board is not meeting satisfactory progress toward the obligations set forth in subdivision (a), the department may invoke privileges of succession as allowed by subdivision (a).~~

~~Monitoring shall include a monthly report from the board, the status of meeting the obligations set forth in subdivisions (a) through (d), inclusive, of Provision 1 of Item 1530-001-0775 of the Budget Act of 1995 in addition to other statutory obligations as prescribed by law.~~

~~(c) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by the Structural Pest Control Board shall not be implemented and shall have no force or effect while the board is inoperative or repealed. This subdivision shall be in effect only if the Department of Consumer Affairs invokes privileges of succession pursuant to subdivision (a).~~

~~(d) In the event that the Structural Pest Control Board does not comply with Provision 1 of Item 1530-001-0775 of the Budget Act of 1995 by January 1, 1996, as determined by the department, the sum of one million three hundred fifty-five thousand dollars ($1,355,000) is thereupon appropriated from the Structural Pest Control Fund to the department, and the sum of one hundred three thousand dollars ($103,000) is thereupon appropriated from the Structural Pest Control Education and Enforcement Fund to the department, for purposes of this section.~~

SEC. 5. Section 112 of the Business and Professions Code is amended to read:

112. Notwithstanding any other provision of this code, no ~~agency~~ *bureau or office* in the department~~, with the exception of the Board for Professional Engineers and Land Surveyors,~~ shall be required to compile, publish, sell, or otherwise distribute a directory. ~~When an agency deems~~ *The director may determine that* it *is* necessary to compile and publish a directory~~, the agency shall cooperate with the director in determining~~ *for a bureau or office, and if so, shall determine* its form and content, the time and frequency of its publication, the persons to whom it is to be sold or otherwise distributed, and its price if it is sold. ~~Any agency that requires the approval of the director for the compilation, publication, or distribution of a directory, under the law in effect at the time the amendment made to this section at the 1970 Regular Session of the Legislature becomes effective, shall continue to require that approval.~~ As used in this section, "directory" means a directory, roster, register, or similar compilation of the names of persons who hold a license, certificate, permit, registration, or similar indicia of authority from the ~~agency~~ *bureau or office*.

SEC. 6. Section 116 of the Business and Professions Code is amended to read:

116. (a) The director may audit and review, upon his or her own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation ~~by the Medical Board of California, the allied health professional boards, and the California Board of Podiatric Medicine~~, *relative to a licensee subject to Chapter 5 (commencing with Section 2000) of Division 2*. The director may make

recommendations for changes to the disciplinary system to ~~the appropriate board,~~ the Legislature~~, or both~~.

(b) The director shall report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually~~, commencing March 1, 1995,~~ regarding his or her findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.

SEC. 7. Section 120 of the Business and Professions Code is amended to read:

120. (a) Subdivision (a) of Section 119 shall not apply to a surviving spouse having in his or her possession or displaying a deceased spouse's canceled certified public accountant certificate or canceled public accountant certificate that has been canceled by official action of the ~~California Board of Accountancy~~ *department*.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public accountant from the ~~board~~ *department* may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

SEC. 8. Section 123.5 of the Business and Professions Code is amended to read:

123.5. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, 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 such conduct on application of ~~a board~~ *the department*, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

SEC. 9. Section 124 of the Business and Professions Code is amended to read:

124. Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing

with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by ~~any board in~~ the department, the notice may be given by regular mail addressed to the last known address of the licentiate or by personal service, at the option of the ~~board~~ *department*.

SEC. 10. Section 125.3 of the Business and Professions Code, as amended by Section 2 of Chapter 223 of the Statutes of 2006, is amended to read:

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before ~~any board within~~ the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the ~~board~~ *entity* to increase the cost award. The ~~board~~ *entity* may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the ~~board's~~ *entity's* decision, the ~~board~~ *entity* may enforce the order for repayment in any appropriate

court. This right of enforcement shall be in addition to any other rights the ~~board~~ *entity* may have as to any licentiate to pay costs.

(f) In any action for recovery of costs, proof of the ~~board's~~ *entity's* decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the ~~board~~ *entity* shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the ~~board~~ *entity* may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the ~~board~~ *entity* to reimburse the ~~board~~ *entity* within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the ~~board~~ *entity* recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude ~~a board~~ *an entity* from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to ~~any board~~ *an entity* if a specific statutory provision in ~~that board's~~ *the applicable* licensing act provides for recovery of costs in an administrative disciplinary proceeding.

~~(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licentiate. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.~~

(k) As used in this section, "entity" means the department or the Osteopathic Medical Board, except as provided in subdivision (j).

SEC. 11. Section 125.3 of the Business and Professions Code, as added by Section 1 of Chapter 1059 of the Statutes of 1992, is repealed.

~~125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.~~

~~(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.~~

~~(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.~~

~~(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).~~

~~(e) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.~~

~~(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.~~

~~(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.~~

~~(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one~~

~~year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.~~

~~(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.~~

~~(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.~~

~~(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.~~

SEC. 12. Section 125.5 of the Business and Professions Code is amended to read:

125.5. (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by ~~a board within~~ the department may, upon a petition filed by the ~~board with the approval of the~~ director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. ~~As used in this section, "board" includes commission, bureau, division, agency and a medical quality review committee.~~

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by ~~a board within~~ the department may, upon a petition filed by ~~the board with the approval of~~ the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) ~~of this section~~, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the ~~petitioning board~~ *department* for expenses incurred by the ~~board~~ *department* in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

SEC. 13. Section 126 of the Business and Professions Code is amended to read:

126. Notwithstanding any other provision of this code, any board, commission, examining committee, or other similarly constituted agency within the department required prior to the effective date of this section to submit reports to the Governor under any provision of this code shall not be required to submit ~~such~~ *those* reports. *The department, as the successor to those agencies, shall also not be required to submit those reports.*

SEC. 14. Section 128.5 of the Business and Professions Code is amended to read:

128.5. ~~(a)~~ Notwithstanding any other provision of law, if at the end of any fiscal year, ~~an agency~~ *a bureau, office, or program* within the ~~Department of Consumer Affairs, except the agencies referred to in subdivision (b),~~ *department* has unencumbered funds in an amount that equals or is more than the ~~agency's~~ operating budget *of the bureau, office, or program* for the next two fiscal years, the ~~agency~~ *department* shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the ~~agency~~ *department* within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds ~~of the agency~~ *of that bureau, office, or program* to an amount less than the ~~agency's~~ operating budget for the next two fiscal years.

~~(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral Science Examiners, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an~~

~~amount less than the agency's operating budget for the next two fiscal years.~~

SEC. 15. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) *or the department, upon the department becoming the successor entity to those agencies,* shall require an applicant to furnish to the agency *or department* a full set of fingerprints for purposes of conducting criminal history record checks. ~~Any~~ *The* agency ~~designated in subdivision (b)~~ *or department* may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) *The* California Board of Accountancy.

(2) *The* State Athletic Commission.

(3) *The* Board of Behavioral Sciences.

(4) *The* Court Reporters Board of California.

(5) *The* State Board of Guide Dogs for the Blind.

(6) *The* California State Board of Pharmacy.

(7) *The* Board of Registered Nursing.

(8) *The* Veterinary Medical Board.

(9) *The* Registered Veterinary Technician Committee.

(10) *The* Board of Vocational Nursing and Psychiatric Technicians.

(11) *The* Respiratory Care Board of California.

(12) *The* Hearing Aid Dispensers ~~Advisory Commission~~ *Bureau*.

(13) *The* Physical Therapy Board of California.

(14) *The* Physician Assistant Committee of the Medical Board of California.

(15) *The* Speech-Language Pathology and Audiology Board.

(16) *The* Medical Board of California.

(17) *The* State Board of Optometry.

(18) *The* Acupuncture Board.

(19) *The* Cemetery and Funeral Bureau.

(20) *The* Bureau of Security and Investigative Services.

(21) *The* Division of Investigation.

(22) *The* Board of Psychology.

(23) The California Board of Occupational Therapy.

(24) *The* Structural Pest Control Board.

(25) *The* Contractors' State License Board.

(26) *The* Bureau of Naturopathic Medicine.

(c) ~~The provisions of paragraph (24) of subdivision (b) shall become operative on July 1, 2004. The provisions of paragraph~~ *Paragraph (25)* of subdivision (b) shall become operative on the date on which sufficient funds are available for the Contractors' State License Board *or its successor* and the Department of Justice to conduct a criminal history record check pursuant to this section or on July 1, 2005, whichever occurs first.

SEC. 16. Section 149 of the Business and Professions Code is amended to read:

149. (a) If, upon investigation, an agency designated in subdivision (e) *or the department, upon the department becoming the successor entity to any of those agencies,* has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency *or department,* as applicable, to offer or perform those services, the agency *or department* may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency *or department, as applicable,* in writing that he or she intends to contest the citation. The agency *or department* shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency *or department, as applicable,* shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service

issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

(1) The ~~Bureau~~ *Board* of Barbering and Cosmetology.

(2) The ~~Funeral Directors and Embalmers Program~~ *Cemetery and Funeral Bureau*.

(3) The Veterinary Medical Board.

(4) The Hearing Aid Dispensers ~~Advisory Commission~~ *Bureau*.

(5) The Landscape Architects Technical Committee.

(6) The California Board of Podiatric Medicine.

(7) The Respiratory Care Board of California.

(8) The Bureau of Home Furnishings and Thermal Insulation.

(9) The Bureau of Security and Investigative Services.

(10) The Bureau of Electronic and Appliance Repair.

(11) The Bureau of Automotive Repair.

(12) The Tax Preparers Program.

(13) The California Architects Board.

(14) The Speech-Language Pathology and Audiology Board.

(15) The Board for Professional Engineers and Land Surveyors.

(16) The Board of Behavioral Sciences.

(17) The State Board for Geologists and Geophysicists.

(18) The Structural Pest Control Board.

(19) The Acupuncture Board.

(20) The Board of Psychology.

(21) The California Board of Accountancy.

(22) The Bureau of Naturopathic Medicine.

SEC. 17. Section 473.3 of the Business and Professions Code is amended to read:

473.3. (a) Prior to the termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Committee on Boards, Commissions, and Consumer Protection shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory

program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(b) In addition to subdivision (a), in 2002 and every four years thereafter, the committee, in cooperation with the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*, shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.

(c) The committee, in cooperation with the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*, shall evaluate and review the effectiveness and efficiency of the Bureau for Private Postsecondary and Vocational Education, based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.

(d) In addition to subdivision (a), in 2003 and every four years thereafter, the committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs and the Bureau of Automotive Repair. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.

(e) The committee shall evaluate and review the effectiveness and efficiency of the Bureau of Automotive Repair based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.

SEC. 18. Section 1601.1 of the Business and Professions Code is amended to read:

1601.1. (a) ~~There shall be in the Department of Consumer Affairs the Dental Board of California~~ *Any reference to "board" in this chapter or to the "Dental Board of California" or the "Board of Dental Examiners" in any law or regulation shall be deemed a reference to the department* in which the administration of this chapter is vested. ~~The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate~~ *The department's authority shall apply to examinations, enforcement, and disciplinary actions undertaken by the department's predecessor, and to any other subjects deemed appropriate by the director*.

~~(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.~~

~~(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.~~

~~(d)~~

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 19. Section 1616.5 of the Business and Professions Code is repealed.

~~1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute~~

~~that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 20. Section 1618.5 of the Business and Professions Code is amended to read:

1618.5. (a) The ~~board~~ *department* shall provide to the Director of the Department of Managed Health Care a copy of any accusation filed with the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when the accusation is filed, for a violation of this chapter relating to the quality of care of any dental provider of a health care service plan, as defined in Section 1345 of the Health and Safety Code. There shall be no liability on the part of, and no cause of action shall arise against, the State of California, the ~~Board of Dental Examiners~~ *department*, the Department of Managed Health Care, the director of ~~that~~ *either* department, or any officer, agent, employee, consultant, or contractor of the state ~~or the board~~ or ~~the~~ *either* department for the release of any false or unauthorized information pursuant to this section, unless the release is made with knowledge and malice.

(b) The ~~board and its executive officer and staff~~ *department* shall maintain the confidentiality of any nonpublic reports provided by the Director of the Department of Managed Health Care pursuant to subdivision (i) of Section 1380 of the Health and Safety Code.

SEC. 21. Section 1619 of the Business and Professions Code is amended to read:

1619. The examination papers of any applicant shall be kept for the period of one year and may then be destroyed, but they shall be open to inspection only ~~by members of the board,~~ by the applicant or by someone appointed by the latter to inspect them, by a court of competent jurisdiction in a proceeding where the question of the contents of the papers is properly involved, or by the ~~director in accordance with Section 110 or 153~~ *department*.

SEC. 22. Section 1620.1 of the Business and Professions Code is amended to read:

1620.1. The ~~Department of Consumer Affairs~~ *department*, in conjunction with ~~the board and~~ the Joint Committee on Boards, Commissions, and Consumer Protection, shall review the scope of practice for dental auxiliaries. The department shall employ the

services of an independent consultant to perform this comprehensive analysis. The department shall be authorized to enter into an interagency agreement or be exempted from obtaining sole source approval for a sole source contract. ~~The board shall pay for all of the costs associated with this comprehensive analysis. The department shall report its findings and recommendations to the Legislature by September 1, 2002.~~

SEC. 23. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

(a) "Board" means the ~~Dental Board of California~~ *department*.

(b) "Committee" means the ~~Committee on Dental Auxiliaries~~ *department. Any reference to "Committee on Dental Auxiliaries" in any law or regulation shall be deemed to refer to the department*.

(c) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) "Dental auxiliary" means a person who may perform dental assisting or dental hygiene procedures authorized by this article.

SEC. 24. Section 1742 of the Business and Professions Code is amended to read:

1742. ~~(a) There is within the jurisdiction of the board a Committee on Dental Auxiliaries.~~

~~(b)~~

(a) The ~~Committee on Dental Auxiliaries~~ *department* shall have the following areas of responsibility and duties:

(1) The ~~committee~~ *department* shall have the following duties and authority related to education programs and curriculum:

(A) ~~Shall~~ *To* evaluate all dental auxiliary programs applying for ~~board~~ approval in accordance with ~~board~~ rules governing the programs.

(B) ~~May~~ *To* appoint ~~board members~~ *qualified persons* to any evaluation committee. ~~Board members~~ *Persons* so appointed shall not make a final decision on the issue of program or course approval.

(C) ~~Shall report and make recommendations to the board as to whether a program or course qualifies for approval.~~ The ~~board~~ *director* retains the final authority to grant or deny approval to a program or course.

(D) ~~Shall~~ *To* review and document any alleged deficiencies that might warrant ~~board~~ action to withdraw or revoke approval of a program or course~~, at the request of the board~~.

~~(E) May review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at its own initiation.~~

(2) The ~~committee~~ *department* shall have the following duties and authority related to applications:

(A) ~~Shall~~ *To* review and evaluate all applications for licensure in the various dental auxiliary categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and ~~board~~ regulations.

(B) ~~Shall~~ *To* maintain application records~~,~~ *and* cashier application fees, and *to* perform any other ministerial tasks as are incidental to the application process.

~~(C) May delegate any or all of the functions in this paragraph to its staff.~~

~~(D) Shall~~

(C) To issue auxiliary licenses in all cases, except where there is a question as to a licensing requirement. The ~~board~~ *director* retains final authority to interpret any licensing requirement. ~~If a question arises in the area of interpreting any licensing requirement, it shall be presented by the committee to the board for resolution.~~

(3) The ~~committee~~ *department* shall have the following duties and authority regarding examinations:

(A) ~~Shall advise the board as to~~ *To determine* the type of license examination ~~it deems~~ *deemed* appropriate for the various dental auxiliary license categories.

(B) ~~Shall, at the direction of the board,~~ *To* develop ~~or cause to be developed,~~ *and* administer~~, or both, examinations in accordance with the board's instructions and periodically report to the board on the progress of those examinations. The following shall apply to the examination procedure:~~

~~(i) The examination shall be submitted to the board for its approval prior to its initial administration.~~

~~(ii) Once an examination has been approved by the board, no further approval is required unless a major modification is made to the examination.~~

~~(iii) The committee shall report to the board on the results of each examination and shall, where appropriate, recommend pass points.~~

~~(iv) The board~~ *examinations. The department* shall set pass points for all dental auxiliary licensing examinations.

~~(C) May appoint board members to any examination committee established pursuant to subparagraph (B).~~

(4) The ~~committee~~ *department* shall ~~periodically report and make recommendations to the board concerning~~ *set* the level of fees for dental auxiliaries and *establish* the need for any legislative fee increase. ~~However, the board retains final authority to set all fees.~~

(5) The ~~committee~~ *department* shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and ~~board~~ regulations. ~~The committee may delegate any or all of its functions under this paragraph to its staff.~~

(6) The ~~committee~~ *department* shall have ~~no~~ *the* authority ~~with respect~~ to ~~the approval of~~ *approve* continuing education providers ~~and the board retains all of this authority~~.

(7) The ~~committee~~ *department* shall ~~advise the board as to~~ *set the* appropriate standards of conduct for auxiliaries, the proper ordering of enforcement priorities, and any other enforcement-related matters ~~that the board may, in the future, delegate to the committee. The board shall retain all authority with respect to the enforcement actions, including, but not limited to, complaint resolution, investigation, and disciplinary action against auxiliaries~~.

(8) The ~~committee shall have the following duties regarding regulations:~~ *department may adopt regulations.*

~~(A) To review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.~~

~~(B) To report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.~~

~~(C) To include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed~~

~~changes and the reasons for and facts supporting the need for the change. The board has the final rulemaking authority.~~

~~(c)~~

(b) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders ~~the committee~~ *this article* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 25. Section 1743 of the Business and Professions Code is repealed.

~~1743. The committee shall consist of the following nine members:~~

~~(a) One member who is a public member of the board, one member who is a licensed dentist and who has been appointed by the board as an examiner pursuant to Section 1621, one member who is a licensed dentist who is neither a board member nor appointed by the board as an examiner pursuant to Section 1621, three members who are licensed as registered dental hygienists, at least one of whom is actively employed in a private dental office, and three members who are licensed as registered dental assistants. If available, an individual licensed as a registered dental hygienist in extended functions shall be appointed in place of one of the members licensed as a registered dental hygienist. If available, an individual licensed as a registered dental assistant in extended functions shall be appointed in place of one of the members licensed as a registered dental assistant.~~

~~(b) The public member of the board shall not have been licensed under Chapter 4 (commencing with Section 1600) of the Business and Professions Code within five years of the appointment date and shall not have any current financial interest in a dental-related business.~~

SEC. 26. Section 1744 of the Business and Professions Code is repealed.

~~1744. (a) The members of the committee shall be appointed by the Governor. The terms of the member who is a board member and the member who has been appointed by the board as an examiner pursuant to Section 1621 shall expire December 31, 1976. The terms of the member who is a licensed dentist and one~~

~~member who is a dental assistant and one member who is licensed as a registered dental hygienist shall expire on December 31, 1977. The terms of all other members shall expire on December 31, 1978. Thereafter, appointments shall be for a term of four years.~~

~~(b) No member shall serve as a member of the committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms. The committee shall annually elect one of its members as chairperson.~~

~~(c) The Governor shall have the power to remove any member of the committee from office for neglect of any duty required by law or for incompetence or unprofessional or dishonorable conduct.~~

SEC. 27. Section 1745 of the Business and Professions Code is repealed.

~~1745. Each member of the committee shall receive a per diem and expenses as provided in Section 103.~~

SEC. 28. Section 1746 of the Business and Professions Code is repealed.

~~1746. The committee may employ such employees as it may deem necessary to carry out the functions and responsibilities prescribed by this article.~~

SEC. 29. Section 1746.1 of the Business and Professions Code is repealed.

~~1746.1. The committee shall evaluate all suggestions or requests for regulatory changes related to auxiliaries. The committee shall have the authority to hold informational hearings in order to report and make appropriate recommendations to the board, after consultation with departmental legal counsel and the board's chief executive officer. The committee shall include in any report regarding a proposed regulatory change, at a minimum, the specific language or the proposed change or changes and the reasons therefor and any facts supporting the need for the change.~~

SEC. 30. Section 1748 of the Business and Professions Code is repealed.

~~1748. Recommendations by the committee pursuant to this article shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the committee may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation.~~

SEC. 31. Section 1749 of the Business and Professions Code is repealed.

~~1749. (a) The committee shall meet at least four times annually. The committee shall conduct additional meetings as are necessary in appropriate locations to conclude its business. Special meetings may be held at the time and place the committee designates.~~

~~(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving such notification.~~

~~(c) The committee shall obtain permission of the director to meet more than six times annually. The director shall approve the meetings that are necessary for the committee to fulfill its legal responsibilities.~~

SEC. 32. Section 2001 of the Business and Professions Code is repealed.

~~2001. (a) There is in the Department of Consumer Affairs a Medical Board of California that consists of 15 members, seven of whom shall be public members.~~

~~(b) The Governor shall appoint 13 members to the board, subject to confirmation by the Senate, five of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.~~

~~(c) Notwithstanding any other provision of law, to reduce the membership of the board to 15, the following shall occur:~~

~~(1) Two positions on the board that are public members having a term that expires on June 1, 2010, shall terminate instead on January 1, 2008.~~

~~(2) Two positions on the board that are not public members having a term that expires on June 1, 2008, shall terminate instead on August 1, 2008.~~

~~(3) Two positions on the board that are not public members having a term that expires on June 1, 2011, shall terminate instead on January 1, 2008.~~

~~(d) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 33. Section 2001 is added to the Business and Professions Code, to read:

2001. Any reference to "board" or "division" in this chapter, or to "Medical Board of California," "Division of Medical Quality," or "Division of Licensing" in any law or regulation, shall be deemed to refer to the department.

SEC. 34. Section 2002 of the Business and Professions Code is repealed.

~~2002. Unless otherwise expressly provided, the term "board" as used in this chapter means the Medical Board of California. As used in this chapter or any other provision of law, "Division of Medical Quality" and "Division of Licensing" shall be deemed to refer to the board.~~

SEC. 35. Section 2007 of the Business and Professions Code is repealed.

~~2007. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the public members, shall only be appointed from persons licensed as physicians and surgeons in this state. No person who in any manner owns any interest in any college, school, or institution engaged in medical instruction shall be appointed to the board. Four of the physician members of the board shall hold faculty appointments in a clinical department of an approved medical school in the state, but not more than four members of the board may hold full-time appointments to the faculties of such medical schools.~~

~~The public members shall not be licentiates of the board.~~

SEC. 36. Section 2008 of the Business and Professions Code is repealed.

~~2008. The board may appoint panels from its members for the purpose of fulfilling the obligations established in subdivision (c) of Section 2004. Any panel appointed under this section shall at no time be comprised of less than four members and the number of public members assigned to the panel shall not exceed the number of licensed physician and surgeon members assigned to the panel. The president of the board shall not be a member of any panel. Each panel shall annually elect a chair and a vice chair.~~

SEC. 37. Section 2010 of the Business and Professions Code is repealed.

~~2010. Each member of the board shall be appointed for a term of four years.~~

~~Vacancies occuring on the board shall be filled by appointment of the appointing power for the unexpired term.~~

SEC. 38. Section 2011 of the Business and Professions Code is repealed.

~~2011. The appointing power may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.~~

SEC. 39. Section 2012 of the Business and Professions Code is repealed.

~~2012. The board shall elect a president, a vice president, and a secretary from its members.~~

SEC. 40. Section 2013 of the Business and Professions Code is repealed.

~~2013. (a) The board and a panel appointed under this chapter may convene from time to time as deemed necessary by the board.~~

~~(b) Four members of a panel of the board shall constitute a quorum for the transaction of business at any meeting of the panel. Eight members shall constitute a quorum for the transaction of business at any board meeting.~~

~~(c) It shall require the affirmative vote of a majority of those members present at a board or panel meeting, those members constituting at least a quorum, to pass any motion, resolution, or measure. A decision by a panel to discipline a physician and surgeon shall require an affirmative vote, at a meeting or by mail, of a majority of the members of that panel; except that a decision to revoke the certificate of a physician and surgeon shall require the affirmative vote of four members of that panel.~~

SEC. 41. Section 2014 of the Business and Professions Code is repealed.

~~2014. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 42. Section 2015 of the Business and Professions Code is repealed.

~~2015. The president of the board may call meetings of any duly appointed and created committee or panel of the board at a specified time and place.~~

SEC. 43. Section 2016 of the Business and Professions Code is repealed.

~~2016. Each member of the board and its committees shall receive per diem and travel expenses as provided in Section 103.~~

SEC. 44. Section 2019 of the Business and Professions Code is repealed.

~~2019. The office of the board shall be in the City of Sacramento. Suboffices may be established in the Cities of Los Angeles, San Diego, and San Francisco or the environs of such cities. Legal proceedings against the board shall be instituted in any one of these four cities. The board may also establish other suboffices as it may deem necessary and such records as may be necessary may be transferred temporarily to any suboffices.~~

SEC. 45. Section 2020 of the Business and Professions Code is amended to read:

2020. The ~~board~~ *department* may employ ~~an executive director exempt from the provisions of the Civil Service Act and may also employ~~ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry into effect this chapter. The ~~board~~ *department* may fix the compensation to be paid for services subject to the provisions of applicable state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the ~~board~~ *department* shall be provided special training in investigating medical practice activities.

The Attorney General shall act as legal counsel for the ~~board~~ *department* for any judicial and administrative proceedings and his or her services shall be a charge against it. ~~This~~

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 46. Section 2460 of the Business and Professions Code is amended to read:

2460. ~~There is created within the jurisdiction of the Medical Board of California and its divisions the California Board of Podiatric Medicine.~~ *Any reference to "board" in this article, or to "California Board of Podiatric Medicine" in any law or regulation, shall be deemed to refer to the department.* This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes

effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders ~~the California Board of Podiatric Medicine~~ *this article* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 47. Section 2460.1 of the Business and Professions Code is amended to read:

2460.1. Protection of the public shall be the highest priority ~~for the California Board of Podiatric Medicine~~ in ~~exercising its licensing, regulatory, and disciplinary functions~~ *the enforcement of this article*. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 48. Section 2461 of the Business and Professions Code is amended to read:

2461. As used in this ~~article:~~

~~(a) "Division" means the Division of Licensing of the Medical Board of California.~~

~~(b) "Board" means the California Board of Podiatric Medicine.~~

~~(c) "Podiatric~~ *article, "podiatric* licensing authority" refers to any officer, board, commission, committee, or department of another state that may issue a license to practice podiatric medicine.

SEC. 49. Section 2462 of the Business and Professions Code is repealed.

~~2462. The board shall consist of seven members, three of whom shall be public members. Not more than one member of the board shall be a full-time faculty member of a college or school of podiatric medicine.~~

~~The Governor shall appoint the four members qualified as provided in Section 2463 and one public member. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 50. Section 2463 of the Business and Professions Code is repealed.

~~2463. Each member of the board, except the public members, shall be appointed from persons having all of the following qualifications:~~

~~(a) Be a citizen of this state for at least five years next preceding his or her appointment.~~

~~(b) Be a graduate of a recognized school or college of podiatric medicine.~~

~~(c) Have a valid certificate to practice podiatric medicine in this state.~~

~~(d) Have engaged in the practice of podiatric medicine in this state for at least five years next preceding his or her appointment.~~

SEC. 51. Section 2464 of the Business and Professions Code is repealed.

~~2464. The public members shall be appointed from persons having all of the following qualifications:~~

~~(a) Be a citizen of this state for at least five years next preceding his or her appointment.~~

~~(b) Shall not be an officer or faculty member of any college, school, or other institution engaged in podiatric medical instruction.~~

~~(c) Shall not be a licentiate of the board or of any board under this division or of any board created by an initiative act under this division.~~

SEC. 52. Section 2465 of the Business and Professions Code is repealed.

~~2465. No person who directly or indirectly owns any interest in any college, school, or other institution engaged in podiatric medical instruction shall be appointed to the board or shall any incumbent member of the board have or acquire any interest, direct or indirect, in any such college, school, or institution.~~

SEC. 53. Section 2466 of the Business and Professions Code is repealed.

~~2466. All members of the board shall be appointed for terms of four years. Vacancies shall immediately be filled by the appointing power for the unexpired portion of the terms in which they occur. No person shall serve as a member of the board for more than two consecutive terms.~~

SEC. 54. Section 2467 of the Business and Professions Code is repealed.

~~2467. (a) The board may convene from time to time as it deems necessary.~~

~~(b) Four members of the board constitute a quorum for the transaction of business at any meeting.~~

~~(c) It shall require the affirmative vote of a majority of those members present at a meeting, those members constituting at least a quorum, to pass any motion, resolution, or measure.~~

~~(d) The board shall annually elect one of its members to act as president and a member to act as vice president who shall hold their respective positions at the pleasure of the board. The president may call meetings of the board and any duly appointed committee at a specified time and place.~~

SEC. 55. Section 2468 of the Business and Professions Code is repealed.

~~2468. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 56. Section 2469 of the Business and Professions Code is repealed.

~~2469. Each member of the board shall receive per diem and expenses as provided in Section 2016.~~

SEC. 57. Section 2470 of the Business and Professions Code is amended to read:

2470. The ~~board~~ *department* may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations necessary to ~~enable the board to~~ carry into effect the provisions of law relating to the practice of podiatric medicine.

SEC. 58. Section 2475.2 of the Business and Professions Code is amended to read:

2475.2. As used in this article, "podiatric residency" means a program of supervised postgraduate clinical training, one year or more in duration, approved by the ~~board~~ *department*.

SEC. 59. Section 2475.3 of the Business and Professions Code is amended to read:

2475.3. (a) The ~~board~~ *department* shall approve podiatric residency programs, as defined in Section 2475.2, in the field of podiatric medicine, for persons who are applicants for or have been issued a certificate to practice podiatric medicine pursuant to this article.

(b) The ~~board~~ *department* may only approve a podiatric residency that it determines meets all of the following requirements:

(1) Reasonably conforms with the Accreditation Council for Graduate Medical Education's Institutional Requirements of the Essentials of Accredited Residencies in Graduate Medical Education: Institutional and Program Requirements.

(2) Is approved by the Council on Podiatric Medical Education.

(3) Complies with the requirements of this state.

SEC. 60. Section 2479 of the Business and Professions Code is amended to read:

2479. The ~~division~~ *department* shall issue~~, upon the recommendation of the board,~~ a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

SEC. 61. Section 2480 of the Business and Professions Code is amended to read:

2480. The ~~board~~ *department* shall have full authority to investigate and to evaluate each applicant applying for a certificate to practice podiatric medicine and to make a determination of the admission of the applicant to the examination and the issuance of a certificate in accordance with the provisions and requirements of this chapter.

SEC. 62. Section 2481 of the Business and Professions Code is amended to read:

2481. Each applicant who commenced professional instruction in podiatric medicine after September 1, 1959, shall show by an official transcript or other official evidence submitted directly to the ~~board~~ *department* by the academic institution that he or she has completed two years of preprofessional postsecondary education, or its equivalent, including the subjects of chemistry, biology or other biological science, and physics or mathematics, before completing the resident course of professional instruction.

SEC. 63. Section 2483 of the Business and Professions Code is amended to read:

2483. (a) Each applicant for a certificate to practice podiatric medicine shall show by an official transcript or other official evidence satisfactory to the ~~board~~ *department* that is submitted directly to the ~~board~~ *department* by the academic institution that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a college or school of podiatric

medicine approved by the ~~board~~ *department*. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The ~~board~~ *department*, by regulation, shall adopt standards for determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction related to podiatric medicine in the following:

Alcoholism and other chemical substance detection
Local anesthesia
Anatomy, including embryology, histology, and neuroanatomy
Behavioral science
Biochemistry
Biomechanics-foot and ankle
Child abuse detection
Dermatology
Geriatric medicine
Human sexuality
Infectious diseases
Medical ethics
Neurology
Orthopedic surgery
Pathology, microbiology, and immunology
Pediatrics
Pharmacology, including materia medica and toxicology
Physical and laboratory diagnosis
Physical medicine
Physiology
Podiatric medicine
Podiatric surgery
Preventive medicine, including nutrition
Psychiatric problem detection
Radiology and radiation safety
Spousal or partner abuse detection
Therapeutics
Women's health

SEC. 64. Section 2484 of the Business and Professions Code is amended to read:

2484. In addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the ~~board~~ *department*, submitted directly to the ~~board~~ *department* by the

sponsoring institution, that he or she has satisfactorily completed at least two years of postgraduate podiatric medical and podiatric surgical training in a general acute care hospital approved by the Council of Podiatric Medical Education.

SEC. 65. Section 2486 of the Business and Professions Code is amended to read:

2486. The ~~division~~ *department* shall issue~~, upon the recommendation of the board,~~ a certificate to practice podiatric medicine if the applicant meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

(b) The applicant, within the past 10 years, has passed parts I, II, and III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed a written examination that is recognized by the ~~board~~ *department* to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(d) The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the ~~board~~ *department* to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The ~~board~~ *department* determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the ~~board~~ *department* determines constitutes evidence of a pattern of negligence or incompetence.

(g) A disciplinary databank report regarding the applicant has been directly presented to the ~~board~~ *department* from the Federation of Podiatric Medical Boards.

SEC. 66. Section 2488 of the Business and Professions Code is amended to read:

2488. Notwithstanding any other provision of law, the ~~division~~ *department* shall issue~~, upon the recommendation of the board,~~ a

certificate to practice podiatric medicine by credentialing if the applicant is licensed as a doctor of podiatric medicine in any other state and meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine.

(b) The applicant, within the past 10 years, has passed either part III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or a written examination that is recognized by the ~~board~~ *department* to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed a postgraduate training program approved by the Council on Podiatric Medical Education.

(d) The applicant, within the past 10 years, has passed any oral and practical examination that may be required of all applicants by the ~~board~~ *department* to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The ~~board~~ *department* determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the ~~board~~ *department* determines constitutes evidence of a pattern of negligence or incompetence.

(g) A disciplinary data bank report regarding the applicant has been submitted to the ~~board~~ *department* directly from the Federation of Podiatric Medical Boards.

SEC. 67. Section 2492 of the Business and Professions Code is amended to read:

2492. (a) The ~~board~~ *department* shall examine every applicant for a certificate to practice podiatric medicine to ensure a minimum of entry-level competence at the time and place designated by the ~~board~~ *department* in its discretion, but at least twice a year.

(b) Unless the applicant meets the requirements of Section 2486, applicants shall be required to have taken and passed the examination administered by the National Board of Podiatric Medical Examiners.

(c) The ~~board~~ *department* may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The ~~board~~ *department* may fix the compensation of those persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the ~~board~~ *department* except where those provisions are in conflict with or inconsistent with the provisions of this article. ~~In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the board.~~

SEC. 68. Section 2493 of the Business and Professions Code is amended to read:

2493. (a) An applicant for a certificate to practice podiatric medicine shall pass an examination in the subjects required by Section 2483 in order to ensure a minimum of entry-level competence.

(b) The ~~board~~ *department* shall require a passing score on the National Board of Podiatric Medical Examiners Part III examination that is consistent with the postgraduate training requirement in Section 2484. The ~~board~~ *department*, as of July 1, 2005, shall require a passing score one standard error of measurement higher than the national passing scale score until such time as the National Board of Podiatric Medical Examiners recommends a higher passing score consistent with Section 2484. In consultation with the Office of Examination Resources of the Department of Consumer Affairs, the ~~board~~ *department* shall ensure that the part III examination adequately evaluates the full scope of practice established by Section 2472, including amputation and other foot and ankle surgical procedures, pursuant to Section 139.

SEC. 69. Section 2495 of the Business and Professions Code is repealed.

~~2495. Notwithstanding any other provision of this chapter, the board may delegate to officials of the board the authority to approve the admission of applicants to the examination and to approve the issuance of certificates to practice podiatric medicine to applicants who have met the specific requirements therefor in routine cases where applicants clearly meet the requirements of this chapter.~~

SEC. 70. Section 2496 of the Business and Professions Code is amended to read:

2496. In order to ensure the continuing competence of persons licensed to practice podiatric medicine, the ~~board~~ *department* shall adopt and administer regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) requiring continuing education of those licensees. The ~~board~~ *department* shall require those licensees to demonstrate satisfaction of the continuing education requirements and one of the following requirements at each license renewal:

(a) Passage of an examination administered by the ~~board~~ *department* within the past 10 years.

(b) Passage of an examination administered by an approved specialty certifying board within the past 10 years.

(c) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years.

(d) Recertification of current status by an approved specialty certifying board within the past 10 years.

(e) Successful completion of an approved residency or fellowship program within the past 10 years.

(f) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the ~~Medical Board of California~~ *department*.

(g) Successful completion within the past five years of an extended course of study approved by the ~~board~~ *department*.

(h) Passage within the past 10 years of Part III of the examination administered by the National Board of Podiatric Medical Examiners.

SEC. 71. Section 2497 of the Business and Professions Code is amended to read:

2497. (a) The ~~board~~ *department* may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The ~~board~~ *department* may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. ~~If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board.~~

SEC. 72. Section 2497.5 of the Business and Professions Code is amended to read:

2497.5. (a) The ~~board~~ *department* may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding ~~before the board~~, to direct any licensee found guilty of unprofessional conduct to pay to the ~~board~~ *department* a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge ~~and shall not in any event be increased by the board~~. When the ~~board~~ *department* does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(c) When the payment directed in the ~~board's~~ *department's* order for payment of costs is not made by the licensee, the ~~board~~ *department* may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the ~~board~~ *department* may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the ~~board's~~ *department's* decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the ~~board~~ *department* shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the ~~board~~ *department* may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the ~~board~~ *department* to reimburse the ~~board~~ *department* within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the ~~board~~ *department* may direct.

SEC. 73. Section 2498 of the Business and Professions Code is amended to read:

2498. (a) The ~~board~~ *department* shall have the responsibility for reviewing the quality of podiatric medical practice carried out by persons licensed to practice podiatric medicine.

(b) ~~Each member of the board~~ *The department*, or any licensed doctor of podiatric medicine appointed by the ~~board~~ *department*, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric medical staff thereof, with respect to the podiatric medical care, services, or facilities provided therein, and may inspect podiatric medical patient records with respect to the care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated ~~by a member of the board~~ to any person other than a doctor of podiatric medicine and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 74. Section 2499 of the Business and Professions Code is amended to read:

2499. There is in the State Treasury the ~~Board of~~ Podiatric Medicine Fund. Notwithstanding Section 2445, the ~~division~~ *department* shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it ~~on behalf of the board,~~ pursuant to this ~~chapter~~ *article*, and shall pay the entire amount thereof to the Treasurer for deposit into the fund. All revenue received ~~by the board and the division~~ from fees authorized to be charged relating to the practice of podiatric medicine shall be deposited in the fund as provided in this section, and shall be used to carry out the provisions of this chapter relating to the regulation of the practice of podiatric medicine.

SEC. 75. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless

a lower fee is established by the ~~board~~ *department* in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the ~~board~~ *department* in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of twenty dollars ($20) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the ~~board~~ *department* at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars ($700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the ~~board~~ *department* 30 days prior to the examination date, only the examination fee is returnable to the applicant. The ~~board~~ *department* may charge an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars ($800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The ~~board~~ *department* may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the ~~board~~ *department* or who has completed a postgraduate training program approved by the ~~board~~ *department* within six months prior to the payment of the initial license fee.

(d) The biennial renewal fee shall be nine hundred dollars ($900). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is one hundred fifty dollars ($150).

(f) The duplicate wall certificate fee is forty dollars ($40).

(g) The duplicate renewal receipt fee is forty dollars ($40).

(h) The endorsement fee is thirty dollars ($30).

(i) The letter of good standing fee or for loan deferment is thirty dollars ($30).

(j) There shall be a fee of sixty dollars ($60) for the issuance of a resident's license under Section 2475.

(k) The application fee for ankle certification under Section 2472 for persons licensed prior to January 1, 1984, shall be fifty dollars ($50). The examination and reexamination fee for this certification shall be seven hundred dollars ($700).

(*l*) The filing fee to appeal the failure of an oral examination shall be twenty-five dollars ($25).

(m) The fee for approval of a continuing education course or program shall be one hundred dollars ($100).

SEC. 76. Section 2499.6 of the Business and Professions Code is amended to read:

2499.6. The fees in this article shall be fixed by the ~~board~~ *department* in accordance with Section 313.1.

SEC. 77. Section 2499.8 of the Business and Professions Code is amended to read:

2499.8. Any licensee who demonstrates to the satisfaction of the ~~board~~ *department* that he or she is unable to practice podiatric medicine due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the ~~board~~ *department* and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice podiatric medicine. A licensee whose renewal fee has been waived pursuant to this section shall not engage in the practice of podiatric medicine unless and until the licensee pays the current renewal fee and does either of the following:

(a) Establishes to the satisfaction of the ~~board~~ *department*, on a form prescribed by the ~~board~~ *department* and signed under penalty of perjury, that the licensee's disability either no longer exists or does not affect his or her ability to practice podiatric medicine safely.

(b) Signs an agreement on a form prescribed by the ~~board~~ *department*, signed under penalty of perjury, in which the licensee agrees to limit his or her practice in the manner prescribed by the reviewing physician.

SEC. 78. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the ~~Speech-Language Pathology and Audiology Board or any successor~~ *department*.

(b) "Person" means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written

verification on file and readily available for inspection upon request by the ~~board~~ *department*. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the ~~board~~ *department*, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the ~~board~~ *department* and who is approved by the ~~board~~ *department* to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the ~~board~~ *department*, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading.

(*l*) "Audiology aide" means any person, meeting the minimum requirements established by the ~~board~~ *department*, who works directly under the supervision of an audiologist.

(m) "Medical board" means the ~~Medical Board of California or a division of the board~~ *department*.

(n) A "hearing screening" performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) "Cerumen removal" means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the

supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 79. Section 2531 of the Business and Professions Code is repealed.

~~2531. There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology Board in which the enforcement and administration of this chapter is vested. The Speech-Language Pathology and Audiology Board shall consist of nine members, three of whom shall be public members.~~

~~This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2009, deletes or extends the inoperative and repeal dates. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 80. Section 2531.02 of the Business and Professions Code is amended to read:

2531.02. Protection of the public shall be the highest priority for the ~~Speech-Language Pathology and Audiology Board~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 81. Section 2531.05 of the Business and Professions Code is repealed.

~~2531.05. The Hearing Aid Dispensers Examining Committee shall appoint one of its members to serve as liaison to the Speech-Language Pathology and Audiology Board for the purpose of coordinating the policies of the committee and board regarding the fitting or dispensing of hearing aids. The Speech-Language Pathology and Audiology Board shall notify the Hearing Aid Dispensers Examining Committee in advance of all board business concerning the fitting or dispensing of hearing aids to facilitate the participation of the liaison member.~~

SEC. 82. Section 2531.1 of the Business and Professions Code is repealed.

~~2531.1. (a) Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No member may serve for more than two consecutive terms.~~

~~(b) Notwithstanding the four-year terms set by subdivision (a), commencing on November 30, 2004, members appointed to the board shall serve the terms set forth below. Each of these terms shall count as a full term for purposes of subdivision (a).~~

~~(1) The two public members appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively, shall each serve a term of one year.~~

~~(2) One licensed speech-language pathologist and one licensed audiologist, as designated by the appointing power, shall each serve a term of two years.~~

~~(3) One licensed speech-language pathologist and one licensed audiologist, as designated by the appointing power, and the public member who is a licensed physician and surgeon, board certified in otaryngology, shall each serve a term of three years.~~

~~(4) One licensed speech-language pathologist and one licensed audiologist, as designated by the appointing power, shall each serve a term of four years.~~

~~(c) Upon completion of each of the terms described in subdivision (b), a succeeding member shall be appointed to the board for a term of four years.~~

SEC. 83. Section 2531.2 of the Business and Professions Code is repealed.

~~2531.2. The membership of the board shall include three licensed speech-language pathologists, three licensed audiologists, and three public members one of whom is a licensed physician and surgeon, board certified in otolaryngology, and the remaining two public members who shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.~~

~~The Governor shall appoint the physician and surgeon member and the other six licensed members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial~~

~~appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

SEC. 84. Section 2531.3 of the Business and Professions Code is amended to read:

2531.3. The ~~board~~ *department* shall examine every applicant for a speech-language pathology license or an audiology license at the time and place designated by the ~~board~~ *department* in its discretion, but at least once in each year; and for that purpose *the director* may appoint qualified persons to give the whole or any portion of the examination~~, who shall be designated as commissioners on examination. A commissioner on examination need not be a member of the board, but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he or she were a member of the board~~.

The ~~board~~ *department* shall perform all examination functions, including but not limited to, participation in uniform examination systems.

SEC. 85. Section 2531.4 of the Business and Professions Code is amended to read:

2531.4. The ~~board~~ *department* shall have full authority to investigate and to evaluate each and every applicant applying for a license to practice speech-language pathology or a license to practice audiology and to determine the admission of the applicant to the examination~~, if administered by the board,~~ or to issue a license, in conformance with the provisions of, and qualifications required by, this chapter.

SEC. 86. Section 2531.5 of the Business and Professions Code is amended to read:

2531.5. The ~~board~~ *department* shall issue, suspend, and revoke licenses and approvals to practice speech-language pathology and audiology as authorized by this chapter.

SEC. 87. Section 2531.6 of the Business and Professions Code is repealed.

~~2531.6. The Governor has power to remove from office any member of the board for neglect of any duty required by this chapter, for incompetency, or for unprofessional conduct.~~

SEC. 88. Section 2531.7 of the Business and Professions Code is repealed.

~~2531.7. The board shall elect annually a chairperson and vice chairperson from among its members. The board shall hold at least~~

~~one regular meeting each year. Additional meetings may be held upon call of the chairperson or at the written request of any two members of the board.~~

SEC. 89. Section 2531.75 of the Business and Professions Code is repealed.

~~2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 90. Section 2531.8 of the Business and Professions Code is repealed.

~~2531.8. Five members of the board shall at all times constitute a quorum.~~

SEC. 91. Section 2531.9 of the Business and Professions Code is repealed.

~~2531.9. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 92. Section 2531.95 of the Business and Professions Code is amended to read:

2531.95. The ~~board~~ *department* shall from time to time adopt the regulations that may be necessary to effectuate this chapter. In adopting regulations the ~~board~~ *department* shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 93. Section 2538 of the Business and Professions Code is amended to read:

2538. A person seeking approval as a speech-language pathology assistant shall make application to the ~~board~~ *department* for that approval.

SEC. 94. Section 2538.1 of the Business and Professions Code is amended to read:

2538.1. (a) The ~~board~~ *department* shall adopt regulations, in collaboration with the State Department of Education, the Commission on Teacher Credentialing, and the Advisory Commission on Special Education, that set forth standards and

requirements for the adequate supervision of speech-language pathology assistants.

(b) The ~~board~~ *department* shall adopt regulations as reasonably necessary to carry out the purposes of this article, that shall include, but need not be limited to, the following:

(1) Procedures and requirements for application, registration, renewal, suspension, and revocation.

(2) Standards for approval of Associate Degree Speech-Language Pathology Assistant training programs based upon standards and curriculum guidelines established by the National Council on Academic Accreditation in Audiology and Speech-Language Pathology, or the American Speech-Language-Hearing Association, or equivalent formal training programs consisting of two years of technical education, including supervised field placements. The ~~board~~ *department* may impanel site review committees to conduct onsite evaluations, inspections, and investigations of a speech-language pathology assistant training program and to assess the training program's compliance with ~~the board's~~ laws and regulations. The members of the site review committee shall receive no compensation but shall be reimbursed for their actual travel and per diem expenses by the institution that is the subject of the evaluation, inspection, or investigation.

(3) Standards for accreditation of a Speech-Language Pathology Assistant training program's institution by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges or the Senior College Commission of the Western Association of Schools and Colleges, or equivalent accreditation.

(4) The scope of responsibility, duties, and functions of speech-language pathology assistants, that shall include, but not be limited to, all of the following:

(A) Conducting speech-language screening, without interpretation, and using screening protocols developed by the supervising speech-language pathologist.

(B) Providing direct treatment assistance to patients or clients under the supervision of a speech-language pathologist.

(C) Following and implementing documented treatment plans or protocols developed by a supervising speech-language pathologist.

(D) Documenting patient or client progress toward meeting established objectives, and reporting the information to a supervising speech-language pathologist.

(E) Assisting a speech-language pathologist during assessments, including, but not limited to, assisting with formal documentation, preparing materials, and performing clerical duties for a supervising speech-language pathologist.

(F) When competent to do so, as determined by the supervising speech-language pathologist, acting as an interpreter for non-English-speaking patients or clients and their family members.

(G) Scheduling activities and preparing charts, records, graphs, and data.

(H) Performing checks and maintenance of equipment, including, but not limited to, augmentative communication devices.

(I) Assisting with speech-language pathology research projects, in-service training, and family or community education.

The regulations shall provide that speech-language pathology assistants are not authorized to conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist.

(5) The requirements for the wearing of distinguishing name badges with the title of speech-language pathology assistant.

(6) Minimum continuing professional development requirements for the speech-language pathology assistant, not to exceed 12 hours in a two-year period. The speech-language pathology assistant's supervisor shall act as a professional development advisor. The speech-language pathology assistant's professional growth may be satisfied with successful completion of state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication and related disorders.

(7) Minimum continuing professional development requirements for the supervisor of a speech-language pathology assistant.

(8) The type and amount of direct and indirect supervision required for speech-language pathology assistants.

(9) The maximum number of assistants permitted per supervisor.

(10) A requirement that the supervising speech-language pathologist shall remain responsible and accountable for clinical judgments and decisions and the maintenance of the highest quality

and standards of practice when a speech-language pathology assistant is utilized.

SEC. 95. Section 2570.2 of the Business and Professions Code is amended to read:

2570.2. As used in this chapter, unless the context requires otherwise:

(a) "Appropriate supervision of an aide" means that the responsible occupational therapist shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide.

(b) "Aide" means an individual who provides supportive services to an occupational therapist and who is trained by an occupational therapist to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist in his or her practice of occupational therapy. An occupational therapy assistant shall not supervise an aide engaged in client-related tasks.

(c) "Association" means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.

(d) "Board" means the ~~California Board of Occupational Therapy~~ *department. Any reference to the "California Board of Occupational Therapy" in any law or regulation shall be deemed to refer to the department*.

(e) "Examination" means an entry level certification examination for occupational therapists and occupational therapy assistants administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.

(f) "Good standing" means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional certifying or standard-setting body within five years prior to application or renewal of the person's license.

(g) "Occupational therapist" means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the ~~board~~ *department* to practice occupational therapy under this chapter. Only the occupational therapist is responsible for the occupational therapy assessment of a client, and the development of an occupational therapy plan of treatment.

(h) "Occupational therapy assistant" means an individual who is certified pursuant to the provisions of this chapter, who is in good standing as determined by the ~~board~~ *department*, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.

(i) "Occupational therapy services" means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.

(j) "Person" means an individual, partnership, unincorporated organization, or corporation.

(k) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)). Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating

selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

(*l*) "Hand therapy" is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.

(m) "Physical agent modalities" means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

SEC. 96. Section 2570.19 of the Business and Professions Code is repealed.

~~2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.~~

~~(b) The members of the board shall consist of the following:~~

~~(1) Three occupational therapists who shall have practiced occupational therapy for five years.~~

~~(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.~~

~~(3) Three public members who shall not be licentiates of the board or of any board referred to in Section 1000 or 3600.~~

~~(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.~~

~~(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.~~

~~(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.~~

~~(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.~~

~~(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.~~

~~(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.~~

~~(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.~~

~~(k) A loan is hereby authorized from the General Fund to the Occupational Therapy Fund on or after July 1, 2000, in an amount of up to one million dollars ($1,000,000) to fund operating, personnel, and other startup costs of the board. Six hundred ten thousand dollars ($610,000) of this loan amount is hereby appropriated to the board to use in the 2000–01 fiscal year for the purposes described in this subdivision. In subsequent years, funds from the Occupational Therapy Fund shall be available to the board upon appropriation by the Legislature in the annual Budget Act. The loan shall be repaid to the General Fund over a period of up to five years, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual board financing requirements as determined by the Department of Finance.~~

~~(*l*) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 97. Section 2570.20 of the Business and Professions Code is amended to read:

2570.20. (a) The ~~board~~ *department* shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for licensure under this chapter.

(b) The ~~board~~ *department* shall adopt rules in accordance with the Administrative Procedure Act relating to professional conduct to carry out the purpose of this chapter, including, but not limited to, rules relating to professional licensure or certification and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy and for persons certified to assist in the practice of occupational therapy in this state.

(c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 98. Section 2570.21 of the Business and Professions Code is repealed.

~~2570.21. Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees~~

SEC. 99. Section 2570.30 of the Business and Professions Code is amended to read:

2570.30. The ~~board~~ *department* shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the ~~board~~ *department* or a court of law, or by the voluntary surrender of a license by the licensee.

SEC. 100. Section 2601 of the Business and Professions Code is amended to read:

2601. "Board" as used in this chapter means the ~~Physical Therapy Board of California~~ *department. Any reference to the "Physical Therapy Board of California" in any law or regulation shall be deemed to refer to the department.*

SEC. 101. Section 2602 of the Business and Professions Code is amended to read:

2602. The ~~Physical Therapy Board of California, hereafter referred to as the board,~~ *department* shall enforce and administer this chapter. This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 102. Section 2602.1 of the Business and Professions Code is amended to read:

2602.1. Protection of the public shall be the highest priority for the ~~Physical Therapy Board of California~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other

interests sought to be promoted, the protection of the public shall be paramount.

SEC. 103. Section 2603 of the Business and Professions Code is repealed.

~~2603. The members of the board consist of the following: one physical therapist involved in the education of physical therapists, three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board, and three public members who shall not be licentiates of the board or of any other board under the Medical Board of California or of any board referred to in Sections 1000 and 3600.~~

SEC. 104. Section 2604 of the Business and Professions Code is repealed.

~~2604. The members of the board shall be appointed for a term of four years, expiring on the first day of June of each year.~~

~~The Governor shall appoint one of the public members and the four physical therapist members of the board qualified as provided in Section 2603. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.~~

~~No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually, the board shall elect one of its members as president.~~

~~The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.~~

SEC. 105. Section 2604.5 of the Business and Professions Code is repealed.

~~2604.5. The public members shall be appointed from persons having all of the following qualifications:~~

~~(a) Be a citizen of California.~~

~~(b) Shall not be an officer or faculty member of any college, school or institution engaged in physical therapy education.~~

~~(c) Shall not be a licentiate of the Medical Board of California or of any board under this division or of any board referred to in Sections 1000 and 3600.~~

SEC. 106. Section 2605 of the Business and Professions Code is amended to read:

2605. It shall be the duty of the ~~board~~ *department* to examine applicants for a license as provided by this chapter, at those places and times as shall be designated by the ~~board~~ *department* in its discretion. It may employ physical therapists licensed pursuant to this chapter to aid it in that examination. The examination shall reasonably test the applicant's knowledge of physical therapy in areas such as: anatomy, pathology, kinesiology, physiology, psychology, physics, electrotherapy, radiation therapy, hydrotherapy, massage, therapeutic exercise, physical therapy as applied to medicine, neurology, orthopedics, surgery, psychiatry, procedures of evaluation, testing, measuring, and technical procedures in the practice of physical therapy, consultation, and program planning.

SEC. 107. Section 2606 of the Business and Professions Code is repealed.

~~2606. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 108. Section 2607 of the Business and Professions Code is amended to read:

2607. The ~~board~~ *department* may employ, subject to law, such clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

The ~~board~~ *department* may as necessary select and contract with physical therapy consultants who are licensed physical therapists to assist it in its programs on an intermittent basis. Notwithstanding any other provision of law, the ~~board~~ *department* may contract with these consultants on a sole source basis. For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the ~~board~~ *department* shall be considered a public employee.

SEC. 109. Section 2607.5 of the Business and Professions Code is repealed.

~~2607.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who~~

~~shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 110. Section 2608.5 of the Business and Professions Code is amended to read:

2608.5. ~~Each member of the board~~ *The department*, or any licensed physical therapist appointed by the ~~board~~ *department*, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by ~~a member of the board~~ *the department* to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 111. Section 2609 of the Business and Professions Code is amended to read:

2609. The ~~board~~ *department* shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

SEC. 112. Section 2611 of the Business and Professions Code is repealed.

~~2611. The board shall hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place as the board may designate.~~

SEC. 113. Section 2612 of the Business and Professions Code is repealed.

~~2612. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9~~

~~(commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 114. Section 2613 of the Business and Professions Code is amended to read:

2613. The ~~board~~ *department* may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as a commissioner on examination. ~~A commissioner on examination need not be a member of the board but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he or she were a member of the board.~~

SEC. 115. Section 2614 of the Business and Professions Code is amended to read:

2614. (a) The ~~board~~ *department* shall hear all matters, including but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Except as otherwise provided in this chapter, all hearings 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. ~~If a contested case is heard by the board the hearing officer who presided at the hearing shall be present during the board's consideration of the case and, if requested, shall assist and advise the board.~~

(b) At the conclusion of the hearing, the ~~board~~ *department* shall deny an application for, or suspend or revoke, or impose probation conditions upon, a license or approval.

SEC. 116. Section 2615 of the Business and Professions Code is amended to read:

2615. The ~~board~~ *department* shall from time to time adopt regulations that may be necessary to effectuate this chapter. In adopting regulations the ~~board~~ *department* shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 117. Section 2632 of the Business and Professions Code is amended to read:

2632. All licenses for the practice of physical therapy in this state shall be issued by the ~~board~~ *department*, and all applications for the licenses shall be filed with the ~~board~~ *department*. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the ~~board~~ *department* shall describe the licensee

as a "physical therapist licensed by the ~~Physical Therapy Board~~ *Department of Consumer Affairs* of California."

Each application shall be accompanied by the application fee prescribed by Section 2688, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.

SEC. 118. Section 2701 of the Business and Professions Code is amended to read:

2701. ~~There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.~~

Within the meaning of this chapter, ~~board, or the board,~~ *"board"* refers to the ~~Board of Registered Nursing~~ *department*. Any reference in state law *or regulation* to the *Board of Registered Nursing or* Board of Nurse Examiners of the State of California or California Board of Nursing Education and Nurse Registration shall be construed to refer to the ~~Board of Registered Nursing~~ *department*.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 119. Section 2702 of the Business and Professions Code is repealed.

~~2702. Each member of the board shall be a citizen of the United States and a resident of the State of California. Four members shall represent the public at large, and shall not be licensed under any board under this division or any board referred to in Section 1000 or 3600 and shall have no pecuniary interests in the provision of health care services. Two members shall be licensed registered nurses under the provisions of this chapter, each of whom shall be active in the practice of his or her profession engaged primarily in direct patient care with at least five continuous years of experience, and who shall not be engaged as an educator or administrator of a nursing education program under the provisions of this chapter. One member shall be a licensed registered nurse who shall be active as an advanced practice registered nurse as defined in Section 2725.5. One member shall be a licensed~~

~~registered nurse under the provisions of this chapter who shall be active as an educator or administrator in an approved program to train registered nurses. One member shall be a licensed registered nurse who is an administrator of a nursing service with at least five continuous years of experience.~~

SEC. 120. Section 2703 of the Business and Professions Code is repealed.

~~2703. All appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.~~

~~The Governor shall appoint two of the public members and the licensed members of the board qualified as provided in Section 2702. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 121. Section 2706 of the Business and Professions Code is repealed.

~~2706. The Governor has the power to remove any member of the board from office for neglect of any duty required by law, or for incompetency, or unprofessional or dishonorable conduct.~~

SEC. 122. Section 2707 of the Business and Professions Code is repealed.

~~2707. The board shall annually elect from its members a president, vice president, and any other officers as it may deem necessary. The officers of the board shall hold their respective positions during its pleasure.~~

SEC. 123. Section 2708 of the Business and Professions Code is repealed.

~~2708. The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.~~

~~The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.~~

~~The executive officer shall not be a member of the board.~~

~~This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 124. Section 2708.1 of the Business and Professions Code is amended to read:

2708.1. Protection of the public shall be the highest priority for the ~~Board of Registered Nursing~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 125. Section 2709 of the Business and Professions Code is repealed.

~~2709. The board for the purpose of transacting its business shall meet at least once every three months, at times and places it designates by resolution.~~

SEC. 126. Section 2709.5 of the Business and Professions Code is amended to read:

2709.5. The ~~board~~ *department* shall accept in payment of any fee required by this chapter cash or any customary or generally accepted medium of exchange, including check, cashier's check, certified check or money order. For the purposes of this section, customary or generally accepted medium of exchange does not include postage stamps.

SEC. 127. Section 2710 of the Business and Professions Code is repealed.

~~2710. Special meetings may be held at such times as the board may elect, or on the call of the president of the board, or of not less than three members thereof.~~

~~A written notice of the time, place and object of any special meeting shall be mailed by the executive officer to all members of the board who are not parties to the call, at least fifteen days before the day of the meeting.~~

SEC. 128. Section 2710.5 of the Business and Professions Code is amended to read:

2710.5. The ~~board, with permission of the Director of the Department of Consumer Affairs,~~ *department* may form advisory committees to advise the ~~board~~ *department* on the implementation of this chapter. ~~Members of such advisory committees shall be entitled to a per diem and expenses as provided in Section 103.~~

SEC. 129. Section 2712 of the Business and Professions Code is repealed.

~~2712. Five members of the board constitute a quorum for the transaction of business at any meeting.~~

SEC. 130. Section 2713 of the Business and Professions Code is amended to read:

2713. The ~~board~~ *department* shall keep a ~~record of all its proceedings, including a~~ register of all applicants for licenses under this chapter and the action of the ~~board~~ *department* upon each application.

SEC. 131. Section 2714 of the Business and Professions Code is repealed.

~~2714. The office of the board shall be in the city of Sacramento. Suboffices may be established in Los Angeles and San Francisco and such records as may be necessary may be transferred temporarily to them. Legal proceedings against the board may be instituted in any county in which any of the three cities above mentioned is located.~~

SEC. 132. Section 2715 of the Business and Professions Code is amended to read:

2715. The ~~board~~ *department* shall prosecute all persons guilty of violating the provisions of this chapter.

Except as provided by Section 159.5, the ~~board~~ *department*, in accordance with the provisions of the Civil Service Law, may employ such personnel as it deems necessary to carry into effect the provisions of this chapter.

The ~~board shall have and use a seal bearing the name "Board of Registered Nursing." The board~~ *department* may adopt, amend, or repeal, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371)~~,~~ *of* Part 1~~,~~ *of* Division 3~~,~~ *of* Title 2 of the Government Code, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of this chapter.

SEC. 133. Section 2716 of the Business and Professions Code is repealed.

~~2716. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 134. Section 2717 of the Business and Professions Code is amended to read:

2717. (a) The ~~board~~ *department* shall collect and analyze workforce data from its licensees for future workforce planning. The ~~board~~ *department* may collect the data at the time of license renewal or from a scientifically selected random sample of its licensees. The ~~board~~ *department* shall produce reports on the workforce data it collects, at a minimum, on a biennial basis. The ~~board~~ *department* shall maintain the confidentiality of the

information it receives from licensees under this section and shall only release information in an aggregate form that cannot be used to identify an individual. The workforce data collected by the ~~board~~ *department* shall include, at a minimum, employment information such as hours of work, number of positions held, time spent in direct patient care, clinical practice area, type of employer, and work location. The data shall also include future work intentions, reasons for leaving or reentering nursing, job satisfaction ratings, and demographic data.

(b) Aggregate information collected pursuant to this section shall be placed on the ~~board's~~ *department's* Internet Web site.

(c) The ~~board~~ *department* is authorized to expend the sum of one hundred forty-five thousand dollars ($145,000) from the Board of Registered Nursing Fund in the Professions and Vocations Fund for the purpose of implementing this section.

(d) This section shall be implemented by the ~~board~~ *department* on or before July 1, 2003.

SEC. 135. Section 2841 of the Business and Professions Code is amended to read:

2841. ~~There is in the Department of Consumer Affairs a Board of Vocational Nursing and Psychiatric Technicians of the State of California, consisting of 11 members.~~

Within the meaning of this chapter, ~~board, or the board,~~ *"board"* refers to the ~~Board of Vocational Nursing and Psychiatric Technicians of the State of California~~ *department. The department shall succeed to, and be vested with, all of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the board.*

This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 136. Section 2841.1 of the Business and Professions Code is amended to read:

2841.1. Protection of the public shall be the highest priority for the ~~Board of Vocational Nursing and Psychiatric Technicians of the State of California~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection

of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 137. Section 2842 of the Business and Professions Code is repealed.

~~2842. (a) Each member of the board shall be a citizen of the United States and a resident of the State of California. The board shall have the following composition:~~

~~(1) Two members shall be duly licensed vocational nurses who have been licensed for a period of not less than three years prior to appointment.~~

~~(2) Two members shall be licensed psychiatric technicians, each of whom shall have had not less than five years' experience in a psychiatric hospital, or in a psychiatric unit of a hospital licensed by the State Department of Health Services, or a private institution licensed by the State Department of Health Services.~~

~~(3) One member shall be a licensed vocational nurse or registered nurse who shall have had not less than five years' experience as a teacher or administrator in an accredited school of vocational nursing.~~

~~(4) Six members shall be public members who are not licentiates of the board or any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~(b) No person may serve as a member of the board for more than two consecutive terms.~~

~~(c) Per diem and expenses of members of the board who are licensed psychiatric technicians shall be paid solely from revenues received pursuant to Chapter 10 (commencing with Section 4500) of Division 2.~~

SEC. 138. Section 2843 of the Business and Professions Code is repealed.

~~2843. Members of the board shall be appointed for a term of four years. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~Appointments to the office shall be for a term of four years expiring on June 1st.~~

~~The Governor shall appoint four of the public members and the licensed members of the board qualified as provided in Section 2842. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial~~

~~appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

SEC. 139. Section 2845 of the Business and Professions Code is repealed.

~~2845. The Governor has the power to remove any member of the board from office for neglect of any duty required by law, or for incompetency, or unprofessional or dishonorable conduct.~~

SEC. 140. Section 2846 of the Business and Professions Code is repealed.

~~2846. The board at its first meeting after appointment, and annually thereafter at its first meeting in each year, shall elect from its members a president, vice president, and such other officers as it may deem necessary. The officers of the board shall hold their respective positions during its pleasure.~~

SEC. 141. Section 2847 of the Business and Professions Code is repealed.

~~2847. (a) The board shall select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties.~~

~~(b) The person selected to be the executive officer of the board shall be a duly licensed vocational nurse under this chapter, a duly licensed professional nurse as defined in Section 2725, or a duly licensed psychiatric technician. The executive officer shall not be a member of the board.~~

~~(c) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.~~

~~(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of his or her duties. He or she shall make a statement, certified before some duly authorized person, that the expenses have been actually incurred.~~

~~(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 142. Section 2848 of the Business and Professions Code is repealed.

~~2848. The board for the purpose of transacting its business shall meet at least twice each year, at times and places it designates by resolution.~~

SEC. 143. Section 2849 of the Business and Professions Code is repealed.

~~2849. Special meetings may be held at such times as the board may elect, or on the call of the president of the board, or of not less than five members thereof.~~

~~A written notice of the time, place, and object of any special meeting shall be mailed by the executive officer to all members of the board who are not parties to the call, at least 15 days before the day of the meeting.~~

SEC. 144. Section 2850 of the Business and Professions Code is repealed.

~~2850. Meetings may be held at any time and place by the written consent of all members of the board.~~

SEC. 145. Section 2851 of the Business and Professions Code is repealed.

~~2851. Six members of the board constitute a quorum for transaction of business at any meeting.~~

SEC. 146. Section 2852 of the Business and Professions Code is repealed.

~~2852. The board shall keep a record of all its proceedings, including a register of all applicants for licenses under this chapter and the action of the board upon each application.~~

SEC. 147. Section 2853 of the Business and Professions Code is repealed.

~~2853. The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco and such records as may be necessary may be transferred temporarily to them. Legal proceedings against the board may be instituted in any county in which any of the three cities above mentioned is located.~~

SEC. 148. Section 2854 of the Business and Professions Code is amended to read:

2854. The ~~board~~ *department* shall prosecute all persons guilty of violating the provisions of this chapter.

It may employ such clerical assistance as it may deem necessary to carry into effect the provisions of this chapter. The ~~board~~ *department* may fix the compensation to be paid for such services and may incur such other expenses as it may deem necessary.

The ~~board~~ *department* may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to

carry into effect the provisions of this chapter. Such rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.

SEC. 149. Section 2855 of the Business and Professions Code is repealed.

~~2855. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 150. Section 2857 of the Business and Professions Code is amended to read:

2857. The ~~board~~ *department* shall issue a license designated as licensed vocational nurse license.

SEC. 151. Section 2858 of the Business and Professions Code is amended to read:

2858. The ~~board~~ *department* shall accept in payment of any fee required by this chapter cash or any customary or generally accepted medium of exchange, including check, cashier's check, certified check, or postal money order. For the purposes of this section, customary or generally accepted medium of exchange does not include postage stamps.

SEC. 152. Section 2878.1 of the Business and Professions Code is amended to read:

2878.1. (a) If a licensed vocational nurse has knowledge that another person has committed any act prohibited by Section 2878, the licensed vocational nurse shall report this information to the ~~board~~ *department* in writing and shall cooperate with the ~~board~~ *department* in furnishing information or assistance as may be required.

(b) Any employer of a licensed vocational nurse shall report to the ~~board~~ *department* the suspension or termination for cause of any licensed vocational nurse in its employ. In the case of licensed vocational nurses employed by the state, the report shall not be made until after the conclusion of the review process specified in Section 52.3 of the California Code of Regulations and Skelly v. State Personnel Bd. (1975) 15 Cal.3d 194. This required reporting shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 ~~of the Business and Professions Code~~ and shall not be subject to discovery in civil cases.

(c) For purposes of the section, "suspension or termination for cause" is defined as suspension or termination from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to the extent that it impairs the licensee's ability to safely practice vocational nursing.

(2) Unlawful sale of a controlled substance or other prescription items.

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Falsification of medical records.

(5) Gross negligence or incompetence.

(6) Theft from patients or clients, other employees, or the employer.

(d) Failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars ($10,000) per violation.

(e) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this chapter.

(f) The ~~board~~ *department* shall implement this section contingent upon the necessary funding in the annual Budget Act.

SEC. 153. Section 2895.5 of the Business and Professions Code is amended to read:

2895.5. As provided in subdivision (d) of Section 2895, the ~~Board of Vocational Nursing and Psychiatric Technicians~~ *department* shall collect an additional five dollar ($5) assessment at the time of the biennial licensure renewal. This amount shall be credited to the Vocational Nurses Education Fund. This assessment is separate from those fees prescribed in Section 2895.

SEC. 154. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this chapter expressly otherwise provided the following definitions apply:

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, which license is in force and has not been suspended or revoked.

(b) "Board" ~~means the Board~~ *or "Board* of ~~Psychology~~ *Psychology" shall mean the Department of Consumer Affairs.*

(c) A person represents himself or herself to be a psychologist when the person holds himself or herself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychology consultation," "psychology consultant," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," or "psychoanalyst," or when the person holds himself or herself out to be trained, experienced, or an expert in the field of psychology.

(d) "Accredited," as used with reference to academic institutions, means the University of California, the California State University, or an institution that is accredited by a national or an applicable regional accrediting agency recognized by the United States Department of Education.

(e) "Approved," as used with reference to academic institutions, means an institution having "approval to operate", as defined in Section 94718 of the Education Code.

SEC. 155. Section 2915.5 of the Business and Professions Code is amended to read:

2915.5. (a) Any applicant for licensure as a psychologist who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the ~~board~~ *department*, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the ~~board~~ *department* a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The ~~board~~ *department* shall not issue a license to the applicant until the applicant has met the requirements of this section.

SEC. 156. Section 2915.7 of the Business and Professions Code is amended to read:

2915.7. (a) A licensee who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period after the operative date of this section, and shall submit to the ~~board~~ *department* evidence acceptable to the ~~board~~ *department* of the person's satisfactory completion of that course.

(b) The course should include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) Any person seeking to meet the requirements of subdivision (a) of this section may submit to the ~~board~~ *department* a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The ~~board~~ *department*, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The ~~board~~ *department* may not renew an applicant's license until the applicant has met the requirements of this section.

(e) A licensee whose practice does not include the direct provision of mental health services may apply to the ~~board~~ *department* for an exception to the requirements of this section.

(f) This section shall become operative on January 1, 2005.

SEC. 157. Section 2920 of the Business and Professions Code is amended to read:

2920. The ~~Board of Psychology~~ *department* shall enforce and administer this chapter. ~~The board shall consist of nine members, four of whom shall be public members.~~

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 158. Section 2920.1 of the Business and Professions Code is amended to read:

2920.1. Protection of the public shall be the highest priority for the ~~Board of Psychology~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 159. Section 2921 of the Business and Professions Code is repealed.

~~2921. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No member may serve for more than two consecutive terms.~~

SEC. 160. Section 2922 of the Business and Professions Code is repealed.

~~2922. In appointing the members of the board, except the public members, the Governor shall use his or her judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California.~~

~~The Governor shall appoint two of the public members and the five licensed members of the board qualified as provided in Section 2923. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

SEC. 161. Section 2923 of the Business and Professions Code is repealed.

~~2923. Each member of the board shall have all of the following qualifications:~~

~~(a) He or she shall be a resident of this state.~~

~~(b) Each member appointed, except the public members shall be a licensed psychologist.~~

~~The public members shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.~~

SEC. 162. Section 2924 of the Business and Professions Code is repealed.

~~2924. The Governor has power to remove from office any member of the board for neglect of any duty required by this chapter, for incompetency, or for unprofessional conduct.~~

SEC. 163. Section 2925 of the Business and Professions Code is repealed.

~~2925. The board shall elect annually a president and vice president from among its members.~~

SEC. 164. Section 2926 of the Business and Professions Code is repealed.

~~2926. The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the chairman or at the written request of any two members of the board.~~

SEC. 165. Section 2927 of the Business and Professions Code is repealed.

~~2927. Five members of the board shall at all times constitute a quorum.~~

SEC. 166. Section 2927.5 of the Business and Professions Code is repealed.

~~2927.5. Notice of each regular meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 167. Section 2928 of the Business and Professions Code is repealed.

~~2928. The board shall administer and enforce this chapter.~~

SEC. 168. Section 2929 of the Business and Professions Code is repealed.

~~2929. The board shall adopt a seal, which shall be affixed to all licenses issued by the board.~~

SEC. 169. Section 2930 of the Business and Professions Code is amended to read:

2930. The ~~board~~ *department* shall from time to time adopt rules and regulations as may be necessary to effectuate this chapter. In adopting rules and regulations the ~~board~~ *department* shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 170. Section 2930.5 of the Business and Professions Code is amended to read:

2930.5. (a) Any psychologist, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of subdivision (r) of Section 2960 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the ~~committee~~ *department* under this section.

(b) The ~~committee~~ *department* shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in

the permit in connection with his, her, or its practice if the ~~committee~~ *department* finds to its satisfaction that:

(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses and no charges of unprofessional conduct are pending against any such licensed person.

(2) The place, or portion thereof, in which the applicant's or applicants' practice, is owned or leased by the applicant or applicants.

(3) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(4) The name under which the applicant or applicants propose to practice contains one of the following designations: "psychology group" or "psychology clinic."

(c) Fictitious-name permits issued by the ~~committee~~ *department* shall be subject to Article 7 (commencing with Section 2980) pertaining to renewal of licenses.

(d) The ~~committee~~ *department* may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2965.

(e) The ~~committee~~ *department* may also proceed to revoke the fictitious-name permit of a licensee whose license has been revoked, but no proceeding may be commenced unless and until the charges of unprofessional conduct against the licensee have resulted in revocation of the license.

~~(f) The committee may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.~~

SEC. 171. Section 2931 of the Business and Professions Code is amended to read:

2931. The ~~board~~ *department* shall examine and pass upon the qualifications of the applicants for a license as provided by this chapter.

SEC. 172. Section 2933 of the Business and Professions Code is amended to read:

2933. Except as provided by Section 159.5, the ~~board~~ *department* shall employ ~~and shall make available to the board~~,

within the limits of the funds ~~received by the board~~ *it receives,* all personnel necessary to carry out this chapter. ~~The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology.~~ The ~~board~~ *department* shall make all expenditures to carry out this chapter. The ~~board~~ *department* may accept contributions to effectuate the purposes of this chapter.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 173. Section 2934 of the Business and Professions Code is amended to read:

2934. Notwithstanding Section 112, the ~~board~~ *department* may issue, biennially, a current geographical directory of licensed psychologists. The directory may be sent to licensees and to other interested parties at cost.

SEC. 174. Section 2935 of the Business and Professions Code is repealed.

~~2935. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 175. Section 2936 of the Business and Professions Code is amended to read:

2936. The ~~board~~ *department* shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The ~~board~~ *department* shall establish as its standards of ethical conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the ~~board~~ *department* as the accepted standard of care in all licensing examination development and in all ~~board~~ *department* enforcement policies and disciplinary case evaluations.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer ~~Affair's Board of Psychology~~ *Affairs* receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the ~~board~~

department on the Internet at ~~www.psychboard.ca.gov~~ *www.dca.ca.gov*, by calling 1-866-503-3221, or by writing to the following address:

~~Board of Psychology~~ *Department of Consumer Affairs*
1422 Howe Avenue, Suite 22
Sacramento, California 95825-3236"

SEC. 176. Section 2987.2 of the Business and Professions Code is amended to read:

2987.2. In addition to the fees charged pursuant to Section 2987 for the biennial renewal of a license, the ~~board~~ *department* shall collect an additional fee of ten dollars ($10) at the time of renewal. The ~~board~~ *department* shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 177. Section 2987.3 of the Business and Professions Code is amended to read:

2987.3. The following fees apply to fictitious-name permits issued under Section 2930.5.

(a) The initial permit fee is an amount equal to the renewal fee in effect at the beginning of the current renewal cycle. If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the fee in effect at the beginning of the current renewal cycle.

(b) The biennial renewal fee shall be fixed by the ~~committee~~ *department* at an amount not to exceed fifty dollars ($50). The amount of this fee shall not exceed the actual cost of issuing a fictitious-name permit.

(c) The ~~delinquency~~ *delinquency* fee is twenty dollars ($20).

SEC. 178. Section 3004 of the Business and Professions Code is amended to read:

3004. As used in this chapter, "board" means the ~~State Board of Optometry~~ *Department of Consumer Affairs*.

SEC. 179. Section 3010.1 of the Business and Professions Code is amended to read:

3010.1. Protection of the public shall be the highest priority for the ~~State Board of Optometry~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 180. Section 3010.5 of the Business and Professions Code is repealed.

~~3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.~~

~~Six members of the board shall constitute a quorum.~~

~~(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.~~

~~(c) This section shall remain in effect only until July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.~~

SEC. 181. Section 3011 of the Business and Professions Code is repealed.

~~3011. Members of the board, except the public members, shall be appointed only from persons who are registered optometrists of the State of California and actually engaged in the practice of optometry at the time of appointment or who are members of the faculty of a school of optometry. The public members shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~No person, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the board of trustees of any school of optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale.~~

~~No person, including the public members, shall serve as a member of the board for more than two consecutive terms.~~

~~A member of the faculty of a school of optometry may be appointed to the board; however, no more than two faculty members of schools of optometry may be on the board at any one time. Faculty members of the board shall not serve as public members.~~

SEC. 182. Section 3013 of the Business and Professions Code is repealed.

~~3013. (a) Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.~~

~~(b) Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~(c) The Governor shall appoint three of the public members and the six members qualified as provided in Section 3011. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.~~

~~(d) No board member serving between January 1, 2000, and June 1, 2002, inclusive, shall be eligible for reappointment.~~

~~(e) For initial appointments made on or after January 1, 2003, one of the public members appointed by the Governor and two of the professional members shall serve terms of one year. One of the public members appointed by the Governor and two of the professional members shall serve terms of three years. The remaining public member appointed by the Governor and the remaining two professional members shall serve terms of four years. The public members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall each serve for a term of four years.~~

SEC. 183. Section 3014 of the Business and Professions Code is repealed.

~~3014. The board shall elect from its membership a president, a vice president, and a secretary who shall hold office for one year or until the election and qualification of a successor.~~

SEC. 184. Section 3014.6 of the Business and Professions Code is repealed.

~~3014.6. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~(b) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 185. Section 3016 of the Business and Professions Code is repealed.

~~3016. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 186. Section 3017 of the Business and Professions Code is repealed.

~~3017. The board shall hold regular meetings every calendar quarter.~~

~~Special meetings shall be held upon request of a majority of the members of the board or upon the call of the president.~~

SEC. 187. Section 3018 of the Business and Professions Code is amended to read:

3018. The ~~board~~ *department* shall keep an accurate record of all of its licensees~~,~~ *and* proceedings~~, and meetings~~.

SEC. 188. Section 3019 of the Business and Professions Code is amended to read:

3019. The ~~board~~ *department* shall keep a record of all prosecutions for violations of this chapter and of all applications for licensure and examination.

SEC. 189. Section 3023 of the Business and Professions Code is amended to read:

3023. For the purposes of this chapter, the ~~board~~ *department* shall accredit schools, colleges, and universities in or out of this state providing optometric education, that it finds giving a sufficient program of study for the preparation of optometrists.

SEC. 190. Section 3024 of the Business and Professions Code is amended to read:

3024. The ~~board~~ *department* may grant or refuse to grant certificates of registration as provided in this chapter and may revoke or suspend the certificate of registration of any optometrist for any of the causes specified in this chapter.

It shall have the power to administer oaths and to take testimony in the exercise of these functions.

SEC. 191. Section 3025 of the Business and Professions Code is amended to read:

3025. The ~~board~~ *department* may make and promulgate rules and regulations governing *its* procedure ~~of the board~~, the admission of applicants for examination for certificates of registration as optometrists, and the practice of optometry. All ~~such~~ rules and regulations shall be in accordance with and not inconsistent with the provisions of this chapter. Such rules and regulations shall be

adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

SEC. 192. Section 3025.1 of the Business and Professions Code is amended to read:

3025.1. The ~~board~~ *department* may adopt rules and regulations that are, in its judgment, reasonable and necessary to ensure that optometrists have the knowledge to adequately protect the public health and safety by establishing educational requirements for admission to the examination for licensure.

SEC. 193. Section 3025.2 of the Business and Professions Code is amended to read:

3025.2. The ~~board~~ *department* may adopt rules and regulations that are, in its judgment, reasonable and necessary to ensure that optometrists have the knowledge to adequately protect the public health and safety by governing its accreditation of schools, colleges, and universities that provide optometric education. In promulgating these rules and regulations, or in extending accreditation, the ~~board~~ *department* may, to the extent that it deems consistent with the purposes of this chapter, recognize, accept, or adopt the advice, recommendation, accreditation, or approval of a nationally recognized accrediting agency or organization.

SEC. 194. Section 3025.5 of the Business and Professions Code is amended to read:

3025.5. The ~~board~~ *department* may adopt regulations prescribing minimum standards governing the optometric services offered or performed, the equipment, or the sanitary conditions, in all offices for the practice of optometry, which are necessary to protect the health and safety of persons availing themselves of the services offered or performed in such offices.

SEC. 195. Section 3025.6 of the Business and Professions Code is amended to read:

3025.6. The ~~board~~ *department* may adopt regulations clarifying the level of training and the level of supervision of assistants.

SEC. 196. Section 3026 of the Business and Professions Code is amended to read:

3026. The ~~board~~ *department* may adopt and use a common seal and establish a permanent office or offices.

SEC. 197. Section 3027 of the Business and Professions Code is amended to read:

3027. The ~~board~~ *department* shall employ an executive officer and other necessary assistance in the carrying out of the provisions of this chapter.

The executive officer shall perform the duties delegated by the ~~board~~ *department* and shall be responsible to it for the accomplishment of those duties. ~~The executive officer shall not be a member of the board.~~ With the approval of the Director of Finance, the ~~board~~ *department* shall fix the salary of the executive officer. The executive officer shall be entitled to traveling and other necessary expenses in the performance of his *or her* duties.

SEC. 198. Section 3028 of the Business and Professions Code is amended to read:

3028. The Attorney General shall act as the legal counsel for the ~~board~~ *department* and his or her services shall be a charge against it.

SEC. 199. Section 3055 of the Business and Professions Code is amended to read:

3055. The ~~board~~ *department* shall issue a license to an applicant who meets the requirements of this chapter, including the payment of the prescribed licensure, certification, or renewal fee, and who meets any other requirement in accordance with state law. A license or certificate issued under the chapter shall be subject to renewal as prescribed by the ~~board~~ *department* and shall expire unless renewed in that manner. The ~~board~~ *department* may provide for the late renewal of a license or certificate as provided for in Section 163.5.

SEC. 200. Section 3075 of the Business and Professions Code is amended to read:

3075. An optometrist shall post in each location where he or she practices optometry, in an area that is likely to be seen by all patients who use the office, his or her current license or other evidence of current license status issued by the ~~board~~ *department*. The ~~board~~ *department* may charge a fee as specified in Section 3152 for each issuance of evidence of current licensure.

SEC. 201. Section 3300 of the Business and Professions Code is amended to read:

3300. For the purposes of this chapter, the following definitions shall apply:

(a) "Person" includes any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(b) "Advertise" and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

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

(d) "Bureau" means the Hearing Aid Dispensers Bureau.

~~(e) "Advisory committee" or "committee" means the Hearing Aid Dispensers Advisory Committee.~~

~~(f)~~

(e) "License" includes a temporary license.

~~(g)~~

(f) "Licensee" means a person holding a license.

~~(h)~~

(g) "Hearing aid" means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

~~(i)~~

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

~~(j)~~

(i) "Chief" means the Chief of the Hearing Aid Dispensers Bureau.

SEC. 202. Section 3321 of the Business and Professions Code is repealed.

~~3321. (a) There is within the bureau a Hearing Aid Dispensers Advisory Committee. The committee shall consist of seven members; three of whom shall be licensed hearing aid dispensers and four of whom shall be public members. Only one of the licensed members may also be licensed as an audiologist.~~

~~(b) Each member of the committee shall hold office for a term of four years. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.~~

~~(c) Vacancies occurring shall be filled by appointment for the unexpired term. Each member of the committee shall be eligible for reappointment in the discretion of the appointing power, provided that reappointed members shall, at the time of the reappointment, hold a valid license under this chapter. No person may serve as a member of the committee for more than two consecutive terms.~~

~~(d) The Governor shall appoint two of the public members and the three licensees. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member. When appointing the public members, consideration shall be given to appointing a hearing-impaired individual.~~

~~(e) Every member of the committee shall receive per diem and expenses as provided in Section 103 and 113.~~

~~(f) The advisory committee shall:~~

~~(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.~~

~~(2) Consider and make appropriate recommendations to the bureau in all matters relating to hearing aid dispensing in this state.~~

~~(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.~~

~~(g) The bureau shall meet and consult with the committee regarding general policy issues related to hearing aid dispensing.~~

SEC. 203. Section 3325 of the Business and Professions Code is repealed.

~~3325. Notice of each meeting of the committee shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 204. Section 3501 of the Business and Professions Code is amended to read:

3501. As used in this chapter:

(a) "Board" means the ~~Division of Licensing of the Medical Board of California~~ *Department of Consumer Affairs*.

(b) "Approved program" means a program for the education of physician assistants which has been formally approved by the ~~committee~~ *department*.

(c) "Trainee" means a person who is currently enrolled in an approved program.

(d) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the ~~committee~~ *department*.

(e) "Supervising physician" means a physician and surgeon licensed by the ~~board~~ *department* or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(f) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

(g) "Committee" or "examining committee" means the ~~Physician Assistant Committee~~ *Department of Consumer Affairs*.

(h) "Regulations" means the rules and regulations as contained in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(i) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

SEC. 205. Section 3504 of the Business and Professions Code is repealed.

~~3504. There is established a Physician Assistant Committee of the Medical Board of California. The committee consists of nine members. This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 206. Section 3504.1 of the Business and Professions Code is amended to read:

3504.1. Protection of the public shall be the highest priority for the ~~Physician Assistant Committee of the Medical Board of California~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is

inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 207. Section 3505 of the Business and Professions Code is repealed.

~~3505. The members of the committee shall include one member of the Medical Board of California, a physician representative of a California medical school, an educator participating in an approved program for the training of physician assistants, a physician who is an approved supervising physician of a physician assistant and who is not a member of any division of the Medical Board of California, three physician assistants, and two public members. Upon the first expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a member of the Medical Board of California who is a physician member. Upon the first expiration of the term of the member who is a physician representative of a California medical school, that position shall be filled by a public member. Upon the first expiration of the term of the member who is an educator participating in an approved program for the training of physician assistants, that position shall be filled by a physician assistant. Upon the first expiration of the term of the member who is an approved supervising physician of a physician assistant and not a member of any division of the Medical Board of California, that position shall be filled by a public member. Following the expiration of the terms of the members described above, the committee shall include four physician assistants, one physician who is also a member of the Medical Board of California, and four public members.~~

~~Each member of the committee shall hold office for a term of four years expiring on January 1st, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms.~~

~~The Governor shall appoint the licensed members qualified as provided in this section and two public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 208. Section 3506 of the Business and Professions Code is repealed.

~~3506. Each member of the committee shall receive a per diem and expenses as provided in Section 103.~~

SEC. 209. Section 3507 of the Business and Professions Code is repealed.

~~3507. The appointing power has power to remove from office any member of the committee, as provided in Section 106.~~

SEC. 210. Section 3508 of the Business and Professions Code is repealed.

~~3508. (a) The committee may convene from time to time as deemed necessary by the committee.~~

~~(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving notification.~~

~~(c) The committee shall receive permission of the director to meet more than six times annually. The director shall approve meetings that are necessary for the committee to fulfill its legal responsibilities.~~

SEC. 211. Section 3509 of the Business and Professions Code is amended to read:

3509. It shall be the duty of the ~~committee~~ *department* to:

(a) Establish standards and issue licenses of approval for programs for the education and training of physician assistants.

(b) ~~Make recommendations to the board concerning the~~ *Determine the* scope of practice for physician assistants.

(c) ~~Make recommendations to the board concerning the formulation of~~ *Formulate* guidelines for the consideration of applications by licensed physicians to supervise physician assistants and approval of such applications.

(d) Require the examination of applicants for licensure as a physician assistant who meet the requirements of this chapter.

SEC. 212. Section 3509.5 of the Business and Professions Code is repealed.

~~3509.5. The committee shall elect annually a chairperson and a vice chairperson from among its members.~~

SEC. 213. Section 3510 of the Business and Professions Code is amended to read:

3510. The ~~committee~~ *department* may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect

the provisions of this chapter~~; provided, however, that the board shall adopt, amend, and repeal such regulations as may be necessary to enable it to implement the provisions of this chapter under its jurisdiction~~. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 214. Section 3511 of the Business and Professions Code is repealed.

~~3511. Five members shall constitute a quorum for transacting any business. The affirmative vote of a majority of those present at a meeting of the committee shall be required to carry any motion.~~

SEC. 215. Section 3512 of the Business and Professions Code is amended to read:

3512. (a) Except as provided in Sections 159.5 and 2020, the ~~committee~~ *department* shall employ within the limits of the Physician Assistant Fund all personnel necessary to carry out the provisions of this chapter ~~including an executive officer who shall be exempt from civil service~~. The ~~board and committee~~ *department* shall make all necessary expenditures to carry out the provisions of this chapter from the funds established by Section 3520. The ~~committee~~ *department* may accept contributions to effect the purposes of this chapter.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 216. Section 3519.5 of the Business and Professions Code is amended to read:

3519.5. (a) The ~~committee~~ *department* may issue ~~under the name of the board~~ a probationary license to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the applicant's activities shall be supervised by another physician assistant.

(2) Total or partial restrictions on issuing a drug order for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical services.

(8) Compliance with all provisions of this chapter.

(b) The ~~committee and the board~~ *department* may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the ~~committee and the board~~ *department*. These proceedings 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.

SEC. 217. Section 3704 of the Business and Professions Code is amended to read:

3704. *(a)* As used in this chapter, these terms shall be defined as follows:

~~(a) "Board" means the Respiratory Care Board of California.~~

~~(b)~~

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

~~(c)~~

(2) "Medical director" means a physician and surgeon who is a member of a health care facility's active medical staff and who is knowledgeable in respiratory care.

~~(d)~~

(3) "Respiratory care" includes "respiratory therapy" or "inhalation therapy," where those terms mean respiratory care.

~~(e)~~

(4) "Respiratory therapy school" means a program reviewed and approved by the ~~board~~ *department*.

(b) Any reference in this chapter to the "board" or to the Respiratory Care Board of California, shall mean the Department of Consumer Affairs.

SEC. 218. Section 3710 of the Business and Professions Code is amended to read:

3710. The ~~Respiratory Care Board of California, hereafter referred to as the board,~~ *department* shall enforce and administer this chapter.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 219. Section 3710.1 of the Business and Professions Code is amended to read:

3710.1. Protection of the public shall be the highest priority for the ~~Respiratory Care Board of California~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 220. Section 3711 of the Business and Professions Code is repealed.

~~3711. The members of the board shall be the following: one physician and surgeon, four respiratory care practitioners, each of whom shall have practiced respiratory care and four public members who shall not be licensed by the board.~~

SEC. 221. Section 3712 of the Business and Professions Code is repealed.

~~3712. The members of the board shall be appointed as follows:~~

~~(a) Two respiratory care practitioners and one public member shall be appointed by the Speaker of the Assembly.~~

~~(b) One physician and surgeon, one respiratory care practitioner, and one public member shall be appointed by the Senate Rules Committee.~~

~~(c) One respiratory care practitioner, and two public members shall be appointed by the Governor.~~

~~Appointments shall be made for four-year terms, expiring on the first day of June of each year, and vacancies shall be filled for the unexpired term.~~

~~No member shall serve for more than two consecutive terms. Not more than two members of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.~~

~~Annually, the board shall elect one of its members as president.~~

~~The appointing power shall have the authority to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.~~

SEC. 222. Section 3713 of the Business and Professions Code is repealed.

~~3713. (a) The public members shall be appointed from persons having the following qualifications:~~

~~(1) Be a citizen of the United States of America.~~

~~(2) Be a resident of the State of California.~~

~~(3) Shall not be an officer or faculty member of any college, school, or institution engaged in respiratory therapy education.~~

~~(4) Shall not be licensed by the board or by any board under this division.~~

~~(5) Shall have no pecuniary interests in the provision of health care.~~

~~(b) The respiratory care practitioner members shall be appointed from persons licensed as respiratory care practitioners having the following qualifications:~~

~~(1) Be a citizen of the United States of America.~~

~~(2) Be a resident of the State of California.~~

~~(3) One respiratory care practitioner shall be an officer or faculty member of any college, school, or institution engaged in respiratory therapy education.~~

~~(4) Three respiratory care practitioners shall be involved in direct patient care.~~

~~(5) Have at least five years' experience in respiratory care or respiratory therapy education, and have been actively engaged therein for at least three years immediately preceding appointment.~~

~~(c) The physician and surgeon member shall be appointed from persons having the following qualifications:~~

~~(1) Be a citizen of the United States of America.~~

~~(2) Be a resident of the State of California.~~

~~(3) Be a licensed practicing physician and surgeon in the State of California.~~

~~(4) Be knowledgeable in respiratory care.~~

SEC. 223. Section 3715 of the Business and Professions Code is repealed.

~~3715. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 224. Section 3716 of the Business and Professions Code is amended to read:

3716. The ~~board~~ *department* may employ ~~an executive officer exempt from civil service and~~, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 225. Section 3717 of the Business and Professions Code is amended to read:

3717. (a) The ~~board~~ *department*, or any licensed respiratory care practitioner, enforcement staff, or investigative unit ~~appointed by the board~~ *it appoints*, may inspect, or require reports from, a general or specialized hospital or any other facility or corporation providing respiratory care, treatment, or services and the respiratory care staff thereof, with respect to the respiratory care, treatment, services, or facilities provided therein, or the employment of staff providing the respiratory care, treatment, or services, and may inspect and copy respiratory care patient records with respect to that care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section is subject to the restrictions against disclosure contained in Section 2225. Those persons may also inspect and copy employment records relevant to an official investigation provided that the written request to inspect the records specifies the portion of the records to be inspected.

(b) The failure of an employer to provide documents as required by this section is punishable by an administrative fine not to exceed ten thousand dollars ($10,000) per violation. This penalty shall be in addition to, and not in lieu of, any other civil or criminal remedies.

SEC. 226. Section 3718 of the Business and Professions Code is amended to read:

3718. The ~~board~~ *department* shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.

SEC. 227. Section 3719 of the Business and Professions Code is amended to read:

3719. Each person renewing his or her license shall submit proof satisfactory to the ~~board~~ *department* that, during the preceding two-year period, he or she completed the required number of continuing education hours established by regulation of the ~~board~~ *department*. Required continuing education shall not exceed 30 hours every two years.

Successful completion of an examination approved by the ~~board~~ *department* may be submitted by a licensee for a designated portion of continuing education credit. The ~~board~~ *department* shall determine the hours of credit to be granted for the passage of particular examinations.

SEC. 228. Section 3719.5 of the Business and Professions Code is amended to read:

3719.5. The ~~board~~ *department* may require successful completion of one or more professional courses offered by the ~~board~~ *department*, the American Association for Respiratory Care, or the California Society for Respiratory Care in any or all of the following circumstances:

(a) As part of continuing education.

(b) Prior to initial licensure.

(c) Prior to consideration of a reinstatement petition.

SEC. 229. Section 3720 of theBusiness and Professions Code is repealed.

~~3720. The board shall hold at least one regular meeting annually. The board may convene from time to time until its business is concluded. Special meetings may be held at the time and place the board may designate. Additional meetings may be held upon call of the president or at the written request of any two members of the board.~~

SEC. 230. Section 3722 of the Business and Professions Code is amended to read:

3722. The ~~board~~ *department* shall adopt any regulations as may be necessary to effectuate this chapter. In adopting rules and regulations, the ~~board~~ *department* shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 231. Section 3766 of the Business and Professions Code is amended to read:

3766. (a) The ~~board~~ *department* may issue a citation containing an order of abatement and civil penalties against a person who acts in the capacity of, or engages in the business of, a respiratory care practitioner in this state without having a license in good standing issued pursuant to this chapter.

(b) The ~~board~~ *department* may issue a citation containing an order of abatement and civil penalties against a person employing or contracting with a person who acts in the capacity of, or engages in the business of, a respiratory care practitioner in this state without having a license in good standing issued pursuant to this chapter.

SEC. 232. Section 3767 of the Business and Professions Code is amended to read:

3767. (a) The ~~board~~ *department* shall issue a citation to a person and to his or her employer or contractor, if, upon inspection or investigation, either upon complaint or otherwise, the following conditions are met:

(1) The ~~board~~ *department* has probable cause to believe that the person is acting in the capacity of, or engaging in the practice of, a respiratory care practitioner in this state without having a license in good standing issued pursuant to this chapter.

(2) The person is not otherwise exempted from the provisions of this chapter.

(b) Each citation issued pursuant to subdivision (a) shall meet all of the following requirements:

(1) Be in writing and describe with particularity the basis of the citation.

(2) Contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars ($200) nor more than fifteen thousand dollars ($15,000).

(c) A person served with a citation may appeal to the ~~board~~ *department* within 15 calendar days after service of the citation with respect to any of the following:

(1) The violations alleged.

(2) The scope of the order of abatement.

(3) The amount of the civil penalty assessed.

(d) If, within 15 calendar days after service of the citation, the person cited fails to notify the ~~board~~ *department* that he or she intends to appeal the citation, the citation shall be deemed a final order of the ~~board~~ *department* and not subject to review by any

court or agency. The ~~board~~ *department* may extend the 15-day period for good cause.

(e) (1) If a person cited under this section notifies the ~~board~~ *department* in a timely manner that he or she intends to contest the citation, the ~~board~~ *department* shall afford an opportunity for a hearing.

(2) The ~~board~~ *department* shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief.

(f) ~~With the approval of the board, the executive officer~~ *The department* shall prescribe procedures for the issuance and appeal of a citation and procedures for a hearing under this section. The ~~board~~ *department* shall adopt regulations covering the assessment of a civil penalty that shall give due consideration to the gravity of the violation, and any history of previous violations.

(g) The sanctions authorized under this section shall be separate from and in addition to, any other civil or criminal remedies.

SEC. 233. Section 3768 of the Business and Professions Code is amended to read:

3768. (a) After the exhaustion of the review procedures provided for in Section 3767, and as adopted by regulation, the ~~board~~ *department* may apply to the appropriate superior court for both of the following:

(1) A judgment in the amount of the civil penalty.

(2) An order compelling the cited person to comply with the order of abatement.

(b) The application described in subdivision (a) shall include a certified copy of the final order of the ~~board~~ *department*.

(c) The application described in subdivision (a) shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(d) The ~~board~~ *department* may employ collection agencies or other methods in order to collect civil penalties.

SEC. 234. Section 3769.3 of the Business and Professions Code is amended to read:

3769.3. (a) Notwithstanding any other provision, the ~~board~~ *department* may, by stipulation with the affected licensee, issue a public reprimand, after it has conducted an investigation, in lieu of filing or prosecuting a formal accusation.

(b) The stipulation shall contain the authority, grounds, and causes and circumstances for taking such action and by way of waiving the affected licensee's rights, inform the licensee of his or her rights to have a formal accusation filed and stipulate to a settlement thereafter or have the matter in the statement of issues heard before an administrative law judge in accordance with the Administrative ~~Procedures~~ *Procedure* Act.

(c) The stipulation shall be public information and shall be used as evidence in any future disciplinary or penalty action taken by the ~~board~~ *department*.

SEC. 235. Section 3778 of the Business and Professions Code is amended to read:

3778. Notwithstanding any other provision of law, the ~~board~~ *department* may contract with a collection service for the purpose of collecting outstanding fees, fines, or cost recovery amounts, and may release personal information, including the birth date, telephone number, and social security number of any applicant or licensee for this purpose. The contractual agreement shall provide that the collection service shall not inappropriately use or release personal information, and shall provide safeguards to ensure that the information is protected from inappropriate disclosure. The contractual agreement shall hold the collection service liable for inappropriate use or disclosure of personal information.

SEC. 236. Section 4001 of the Business and Professions Code is repealed.

~~4001. (a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.~~

~~(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.~~

~~(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following~~

~~practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.~~

~~(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

~~(f) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 237. Section 4001 is added to the Business and Professions Code, to read:

4001. Any reference in this chapter or its implementing regulations to the California State Board of Pharmacy or "board" shall mean the Department of Consumer Affairs or, if appropriate, the Director of Consumer Affairs.

SEC. 238. Section 4001.1 of the Business and Professions Code is amended to read:

4001.1. Protection of the public shall be the highest priority for the ~~California State Board of Pharmacy~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 239. Section 4002 of the Business and Professions Code is repealed.

~~4002. (a) The board shall elect a president, a vice president, and a treasurer. The officers of the board shall be elected by a majority of the membership of the board.~~

~~(b) The principal office of the board shall be located in Sacramento. The board shall hold a meeting at least once in every four months. Seven members of the board constitute a quorum.~~

SEC. 240. Section 4003 of the Business and Professions Code is repealed.

~~4003. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive officer may or may not be a member of the board as the board may determine.~~

~~(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.~~

~~(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.~~

~~(d) The executive officer shall give receipts for all money received by him or her and pay it to the Department of Consumer Affairs, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.~~

~~(e) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 241. Section 4004 of the Business and Professions Code is repealed.

~~4004. No member of the board shall teach pharmacy in any of its branches, unless he or she teaches as either one of the following:~~

~~(a) A teacher in a public capacity and in a college of pharmacy.~~

~~(b) A teacher of an approved continuing education class as, or under the control of, an accredited provider of continuing education.~~

SEC. 242. Section 4018 of the Business and Professions Code is repealed.

~~4018. "Board" means the California State Board of Pharmacy.~~

SEC. 243. Section 4115 of the Business and Professions Code is amended to read:

4115. (a) A pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of a pharmacist.

(b) This section does not authorize the performance of any tasks specified in subdivision (a) by a pharmacy technician without a pharmacist on duty.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The ~~board~~ *department* shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that employs a pharmacy technician shall do so in conformity with the regulations adopted by the ~~board~~ *department*.

(e) No person shall act as a pharmacy technician without first being licensed by the ~~board~~ *department* as a pharmacy technician.

(f) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the ~~Department of the Youth Authority or the~~ Department of Corrections *and Rehabilitation*, and for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The ~~board~~ *department* may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the ~~board~~ *department* pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. No entity employing a pharmacist may discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

(g) Notwithstanding subdivisions (a) and (b), the ~~board~~ *department* shall by regulation establish conditions to permit the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the Industrial Welfare Commission without closing the pharmacy. During these temporary absences, a pharmacy technician may, at the discretion of the pharmacist, remain in the pharmacy but may only perform nondiscretionary tasks. The pharmacist shall be responsible for a pharmacy technician and shall review any task performed by a pharmacy technician during the pharmacist's temporary absence. Nothing in this subdivision shall be construed to authorize a pharmacist to supervise pharmacy technicians in greater ratios than those described in subdivision (f).

(h) The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician supervised by that pharmacist.

SEC. 244. Section 4116 of the Business and Professions Code is amended to read:

4116. (a) No person other than a pharmacist, an intern pharmacist, an authorized officer of the law, or a person authorized to prescribe shall be permitted in that area, place, or premises described in the license issued by the ~~board~~ *department* wherein controlled substances or dangerous drugs or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, dispensed, or repackaged. However, a pharmacist shall be responsible for any individual who enters the pharmacy for the purposes of receiving consultation from the pharmacist or performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the pharmacy if the pharmacist remains present in the pharmacy during all times as the authorized individual is present.

(b) (1) The ~~board~~ *department* may, by regulation, establish reasonable security measures consistent with this section in order to prevent unauthorized persons from gaining access to the area, place, or premises or to the controlled substances or dangerous drugs or dangerous devices therein.

(2) The ~~board~~ *department* shall, by regulation, establish conditions for the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* without closing the pharmacy and removing authorized personnel from the pharmacy. These conditions shall ensure the security of the pharmacy and its operations during the temporary absence of the pharmacist and shall allow, at the discretion of the pharmacist, nonpharmacist personnel to remain and perform any lawful activities during the pharmacist's temporary absence.

SEC. 245. Section 4501 of the Business and Professions Code is amended to read:

4501. (a) ~~"Board," as used in this chapter, means the~~ *Any reference in this chapter to the* Board of Vocational Nursing and Psychiatric Technicians *or "board" means the Department of Consumer Affairs*.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 246. Section 4501.1 of the Business and Professions Code is amended to read:

4501.1. Protection of the public shall be the highest priority for the ~~board~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 247. Section 4502.2 of the Business and Professions Code is amended to read:

4502.2. A psychiatric technician, when prescribed by a physician and surgeon, may withdraw blood from a patient with a mental illness or developmental disability if the psychiatric technician has received certification from the ~~board~~ *department* that the psychiatric technician has completed a prescribed course of instruction approved by the ~~board~~ *department* or has demonstrated competence to the satisfaction of the ~~board~~ *department*.

SEC. 248. Section 4503 of the Business and Professions Code is amended to read:

4503. (a) The ~~board~~ *department* shall administer and enforce this chapter.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 249. Section 4504 of the Business and Professions Code is amended to read:

4504. The ~~board~~ *department* may adopt rules and regulations to carry out the provisions of this chapter.

SEC. 250. Section 4505 of the Business and Professions Code is amended to read:

4505. Except as provided by Section 159.5, the ~~board~~ *department* may employ whatever personnel is necessary for the administration of this chapter.

SEC. 251. 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 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 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~~ *department* 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 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. 252. Section 4509.5 of the Business and Professions Code is amended to read:

4509.5. Nothing in this chapter shall be construed to prevent persons from performing services described in Section 4502 for purposes of training to qualify for licensure under a program approved by the ~~board~~ *department* or for training in another allied professional field.

SEC. 253. Section 4521.2 of the Business and Professions Code is amended to read:

4521.2. (a) If a psychiatric technician has knowledge that another person has committed any act prohibited by Section 4521, the psychiatric technician shall report this information to the ~~board~~ *department* in writing and shall cooperate with the ~~board~~ *department* in furnishing information or assistance as may be required.

(b) Any employer of a psychiatric technician shall report to the ~~board~~ *department* the suspension or termination for cause of any psychiatric technician in their employ. In the case of psychiatric technicians employed by the state, the report shall not be made until after the conclusion of the review process specified in Section 52.3 of Title 2 of the California Code of Regulations and Skelly v. State Personnel Bd. (1975) 15 Cal.3d 194. The reporting required herein shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 ~~of the Business and Professions Code~~, and shall not be subject to discovery in civil cases.

(c) For purposes of this section, "suspension or termination for cause" is defined as suspension or termination from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to such an extent that it impairs the licensee's ability to safely practice as a psychiatric technician.

(2) Unlawful sale of controlled substances or other prescription items.

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Falsification of medical records.

(5) Gross negligence or incompetence.

(6) Theft from patients or clients, other employees, or the employer.

(d) Failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars ($10,000) per violation.

(e) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this chapter.

(f) The ~~board~~ *department* shall implement this section contingent upon necessary funding being provided in the annual Budget Act.

SEC. 254. Section 4800 of the Business and Professions Code is repealed.

~~4800. There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of seven members, three of whom shall be public members.~~

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review provided for by Division 1.2 (commencing with Section 473).~~

SEC. 255. Section 4800.1 of the Business and Professions Code is amended to read:

4800.1. Protection of the public shall be the highest priority for the ~~Veterinary Medical Board~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 256. Section 4801 of the Business and Professions Code is repealed.

~~4801. Each member, except the public members, shall be a graduate of some veterinary college authorized by law to confer degrees, a bona fide resident of this state for a period of at least five years immediately preceding his or her appointment, a veterinarian licensed by the state, and shall have been actually engaged in the practice of his or her profession in this state during this period. The public members shall have been residents of this state for a period of at least five years last past before their appointment and shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~No person shall serve as a member of the board for more than two consecutive terms.~~

SEC. 257. Section 4802 of the Business and Professions Code is repealed.

~~4802. The members of the board shall hold office for a term of four years. Each member shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was~~

~~appointed, whichever first occurs. A member may be reappointed subject to the limitation contained in Section 4801.~~

~~Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur.~~

~~The Governor shall appoint the four members qualified as provided in Section 4801. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 258. Section 4803 of the Business and Professions Code is repealed.

~~4803. The Governor may, in his judgment, remove any member of the board for neglect of duty or other sufficient cause, after due notice and hearing.~~

SEC. 259. Section 4804 of the Business and Professions Code is repealed.

~~4804. The board shall elect a president, vice president, and any other officers of the board as shall be necessary, from its membership. The Attorney General shall act as counsel for the board and the members thereof in their official or individual capacity for any act done under the color of official right.~~

SEC. 260. Section 4804.5 of the Business and Professions Code is repealed.

~~4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 261. Section 4805 of the Business and Professions Code is repealed.

~~4805. The executive officer of the board may administer oaths or affirmations upon matters pertaining to the business of the board. Any person willfully making any false oath or affirmation is guilty of perjury.~~

SEC. 262. Section 4806 of the Business and Professions Code is repealed.

~~4806. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 263. Section 4807 of the Business and Professions Code is repealed.

~~4807. Four members of the board constitute a quorum for transaction of business at any meeting of the board.~~

SEC. 264. Section 4808 of the Business and Professions Code is amended to read:

4808. The ~~board~~ *department* may in accordance with the provisions of the Administrative Procedure Act, adopt, amend, or repeal such rules and regulations as are reasonably necessary to carry into effect the provisions of this chapter. ~~The board may hold such meetings as are necessary for the transaction of business. It~~ *The department* shall issue all licenses to practice veterinary medicine in this ~~State~~ *state*.

SEC. 265. Section 4809 of the Business and Professions Code is amended to read:

4809. The ~~board shall keep an official record of its meetings, and it~~ *department* shall ~~also~~ keep an official register of all applicants for licenses.

The register shall be prima facie evidence of all matters contained therein.

SEC. 266. Section 4809.5 of the Business and Professions Code is amended to read:

4809.5. The ~~board~~ *department* may at any time inspect the premises in which veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced.

SEC. 267. Section 4809.6 of the Business and Professions Code is amended to read:

4809.6. The enforcement of Sections 4809.5 and 4854 ~~of this chapter~~ is a function exclusively reserved to the ~~Veterinary Medical Board~~ *department* and the state has preempted and occupied this field of enforcing the cleanliness and sanitary requirements of this chapter.

SEC. 268. Section 4809.7 of the Business and Professions Code is amended to read:

4809.7. The ~~board~~ *department* shall establish a regular inspection program which will provide for random, unannounced inspections.

SEC. 269. Section 4810 of the Business and Professions Code is amended to read:

4810. As used in this chapter:

(a) "Board" ~~means~~ *or* the ~~Veterinary~~ *"Veterinary* Medical ~~Board~~ *Board" means the Department of Consumer Affairs.*

(b) "Committee" or "examining committee" means the ~~Registered Veterinary Technician Examining Committee~~ *Department of Consumer Affairs.*

(c) "Regulations" means the rules and regulations set forth in Division 20 (commencing with Section 2000) of Title 16 of the California Code of Regulations.

(d) "Executive officer" means the Director of Consumer Affairs or his or her designee.

SEC. 270. Section 4826 of the Business and Professions Code is amended to read:

4826. A person practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when he or she does any one of the following:

(a) Represents himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches.

(b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, bodily injury, or disease of animals.

(c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, except where the medicine, appliance, application, or treatment is administered by a registered veterinary technician or an unregistered assistant at the direction of and under the direct supervision of a licensed veterinarian subject to Article 2.5 (commencing with Section 4832) or where the drug, including, but not limited to, a drug that is a controlled substance, is administered by a registered veterinary technician or an unregistered assistant pursuant to Section 4836.1. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the ~~board~~ *department*.

(d) Performs a surgical or dental operation upon an animal.

(e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock or Equidae.

(f) Uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using

them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry. This use shall be prima facie evidence of the intention to represent himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

SEC. 271. Section 4828 of the Business and Professions Code is amended to read:

4828. All veterinarians actually engaged and employed as veterinarians by the state, or a county, city, corporation, firm or individual are practicing veterinary medicine and shall secure a license issued by the ~~board~~ *department*.

SEC. 272. Section 4830 of the Business and Professions Code, as amended by Section 1 of Chapter 823 of the Statutes of 2006, is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(5) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848,

appointed by the University of California, Davis, or the Western University of Health Sciences.

(6) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the ~~board~~ *department*.

(7) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when, in the course of their duties, they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(8) Veterinarians employed by a city, city and county, or county who meet all of the following criteria:

(A) They have earned and possess a doctorate in veterinary medicine from an American Veterinary Medical Association-accredited college of veterinary medicine, or they possess a degree in veterinary medicine from a non-American Veterinary Medical Association-accredited college of veterinary medicine and possess a certificate issued by the Educational Commission for Foreign Veterinary Graduates or a certificate issued by the Program for Assessment of Veterinary Equivalence, or they have achieved board certification from the American College of Veterinary Pathologists.

(B) They have successfully completed a residency approved by the American College of Veterinary Pathologists.

(C) They are conducting activities, under the direct supervision of a California licensed veterinarian, related to pathology and epidemiology on dead animals as part of a government program to monitor a disease or a disease-related condition or to investigate, control, or eradicate a disease.

(b) 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. 273. Section 4830 of the Business and Professions Code, as added by Section 2 of Chapter 823 of the Statutes of 2006, is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(5) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(6) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the ~~board~~ *department*.

(7) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) This section shall become operative on January 1, 2011.

SEC. 274. Section 4832 of the Business and Professions Code, as amended by Section 5 of Chapter 467 of the Statutes of 2004, is repealed.

~~4832. (a) The board shall establish an advisory committee on issues pertaining to the practice of veterinary technicians, that shall be known as the Registered Veterinary Technician Committee, hereafter referred to as the committee.~~

~~(b) It is the intent of the Legislature that the Veterinary Medical Board, in implementing this article, give specific consideration to the recommendations of the Registered Veterinary Technician Committee.~~

SEC. 275. Section 4832 is added to the Business and Professions Code, to read:

4832. Any reference to "committee" or "Registered Veterinary Technician Committee" shall mean the Department of Consumer Affairs.

SEC. 276. Section 4832 of the Business and Professions Code, as added by Section 35 of Chapter 759 of the Statutes of 1997, is repealed.

~~4832. (a) The board shall establish an advisory committee on issues pertaining to the practice of veterinary technicians, known as the Registered Veterinary Technician Committee, hereafter referred to as the committee.~~

~~(b) This section shall become operative on July 1, 1998.~~

SEC. 277. Section 4833 of the Business and Professions Code is amended to read:

4833. (a) The ~~committee shall advise and may assist the board in~~ *department shall conduct* the examination of applicants for veterinary technician registration. The examination shall be held at least once a year at the times and places designated by the ~~board~~ *department*.

(b) The ~~committee~~ *department* may investigate and evaluate each applicant applying for registration as a registered veterinary technician and may recommend ~~to the board for final determination~~ ~~the~~ admission of the applicant to the examination and eligibility for registration.

(c) The ~~committee may make recommendations to the board regarding the establishment and operation of the~~ *department may*

establish continuing education requirements authorized by Section 4838 of this article.

(d) The ~~committee shall advise and may assist the board in the inspection and approval of all~~ *department may inspect and approve* schools or institutions offering a curriculum for training registered veterinary technicians.

(e) The ~~committee may advise and assist the board in developing~~ *department may develop* regulations to establish animal health care tasks and the appropriate degree of supervision required for those tasks for registered veterinary technicians and for unregistered assistants.

(f) The ~~committee may advise and assist the board in developing~~ *department may develop* regulations to define subdivision (c) of Section 4840, including, but not limited to, procedures for citations and fines, in accordance with Section 125.9.

SEC. 278. Section 4834 of the Business and Professions Code is repealed.

~~4834. (a) The board has the power to remove from office at any time any member of the committee for continued neglect of any duty required by this article, for incompetency, or for unprofessional conduct.~~

~~(b) This section shall become operative on July 1, 1998.~~

SEC. 279. Section 4836 of the Business and Professions Code is amended to read:

4836. (a) The ~~board~~ *department* shall adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by a registered veterinary technician or a licensed veterinarian.

(b) The ~~board~~ *department* also may adopt regulations establishing animal health care tasks that may be performed by an unregistered assistant as well as by a registered veterinary technician or a licensed veterinarian. The ~~board~~ *department* shall establish an appropriate degree of supervision by a registered veterinary technician or a licensed veterinarian over an unregistered assistant for any tasks established under this subdivision and the degree of supervision for any of those tasks shall be higher than, or equal to, the degree of supervision required when a registered veterinary technician performs the task.

(c) The ~~board~~ *department* may adopt regulations, as needed, to define subdivision (c) of Section 4840, including, but not limited

to, procedures for citations and fines, in accordance with Section 125.9.

SEC. 280. Section 4836.5 of the Business and Professions Code is amended to read:

4836.5. The ~~board~~ *department* shall take action pursuant to Article 4 (commencing with Section 4875) of this chapter against any veterinarian licensed or authorized to practice in this state who permits any registered veterinary technician or unregistered assistant to perform any animal health care services other than those allowed by this article.

SEC. 281. Section 4837 of the Business and Professions Code is amended to read:

4837. The ~~board~~ *department* may revoke or suspend the registration of a registered veterinary technician in this state after notice and hearing for any cause provided in this article. The proceedings under this article shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the ~~board~~ *department* shall have all the powers granted therein. The ~~board~~ *department* may revoke or suspend a certificate of registration for any of the following reasons:

(a) The employment of fraud, misrepresentation, or deception in obtaining a registration.

(b) Conviction of a crime substantially related to the qualifications, functions, and duties of a registered veterinary technician in which case the record of such conviction will be conclusive evidence.

(c) Chronic inebriety or habitual use of controlled substances.

(d) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(e) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

SEC. 282. Section 4838 of the Business and Professions Code is amended to read:

4838. Effective with the 1976 renewal period, if the ~~board~~ *department* determines that the public health and safety would be

served by requiring all registrants under the provisions of this article to continue their education after receiving such registration, it may require, as a condition of renewal, that they submit assurances satisfactory to the ~~board~~ *department* that they will, during the succeeding renewal period, inform themselves of the developments in the field of animal health technology since the issuance of their certificate of registration by pursuing one or more courses of study satisfactory to the ~~board~~ *department* or by other means deemed equivalent by the ~~board~~ *department*.

The ~~board~~ *department* shall adopt regulations providing for the suspension of registration at the end of each annual renewal period until compliance with the assurances provided for in this section is accomplished.

SEC. 283. Section 4839 of the Business and Professions Code is amended to read:

4839. For purposes of this article, a registered veterinary technician means a person who has met the requirements of Section 4841.5, has passed the written and practical examination, and is registered by the ~~board~~ *department*.

SEC. 284. Section 4841.5 of the Business and Professions Code is amended to read:

4841.5. To be eligible to take the written and practical examination for registration as a registered veterinary technician, the applicant shall:

(a) Be at least 18 years of age.

(b) Furnish satisfactory evidence of graduation from, at minimum, a two-year curriculum in veterinary technology, in a college or other postsecondary institution approved by the ~~board~~ *department*, or the equivalent thereof as determined by the ~~board~~ *department*. In the case of a private postsecondary institution, the institution shall also be approved by the Bureau for Private Postsecondary and Vocational Education.

SEC. 285. Section 4842 of the Business and Professions Code is amended to read:

4842. The ~~board~~ *department* may deny an application to take a written and practical examination for registration as a registered veterinary technician if the applicant has done any of the following:

(a) Committed any act which would be grounds for the suspension or revocation of registration under this chapter.

(b) While unregistered, committed, or aided and abetted the commission of, any act for which a certificate of registration is required by this chapter.

(c) Knowingly made any false statement in the application.

(d) Been convicted of a crime substantially related to the qualifications, functions, and duties of a registered veterinary technician.

(e) Committed any act that resulted in a revocation by another state of his or her license, registration, or other procedure by virtue of which one is licensed or allowed to practice veterinary technology in that state.

SEC. 286. Section 4842.1 of the Business and Professions Code is amended to read:

4842.1. The ~~board~~ *department* shall issue a certificate of registration to each applicant who passes the examination. The form of the certificate shall be determined by the ~~board~~ *department*.

SEC. 287. Section 4842.2 of the Business and Professions Code is amended to read:

4842.2. All funds collected by the ~~board~~ *department* under this article shall be deposited in the Veterinary Medical Board Contingent Fund.

SEC. 288. Section 4842.5 of the Business and Professions Code is amended to read:

4842.5. The amount of fees prescribed by this article is that fixed by the following schedule:

(a) The fee for filing an application for examination shall be set by the ~~board~~ *department* in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed two hundred dollars ($200).

(b) The fee for the California registered veterinary technician examination shall be set by the ~~board~~ *department* in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred dollars ($300).

(c) The initial registration fee shall be set by the ~~board~~ *department* at not more than one hundred dollars ($100), except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the ~~board~~ *department* at not more than fifty dollars ($50). The ~~board~~ *department* may adopt regulations to provide for the waiver or

refund of the initial registration fee where the registration is issued less than 45 days before the date on which it will expire.

(d) The biennial renewal fee shall be set by the ~~board~~ *department* at not more than one hundred dollars ($100).

(e) The delinquency fee shall be twenty-five dollars ($25).

(f) Any charge made for duplication or other services shall be set at the cost of rendering the services.

(g) The fee for filing an application for approval of a school pursuant to Section 4843 shall be set by the ~~board~~ *department* at an amount not to exceed the cost of the approval process.

SEC. 289. Section 4842.6 of the Business and Professions Code is amended to read:

4842.6. (a) Each individual registered by the ~~board~~ *department* shall biennially apply for renewal of his or her license or registration on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the ~~board~~ *department*.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The ~~board~~ *department* may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

SEC. 290. Section 4843 of the Business and Professions Code is amended to read:

4843. The ~~board~~ *department* shall approve all schools or institutions offering a curriculum for training registered veterinary technicians. Application forms for schools requesting approval shall be furnished by the ~~board~~ *department*. Approval ~~by the board~~ shall be for a two-year period. Reapplication for approval ~~by the board~~ shall be made at the end of the expiration date.

SEC. 291. Section 4843.5 of the Business and Professions Code is amended to read:

4843.5. Except as otherwise provided in this article, an expired certificate of registration may be renewed at any time within five

years after its expiration on filing of an application for renewal on a form prescribed by the ~~board~~ *department*, and payment of all accrued and unpaid renewal fees. If the certificate of registration is renewed more than 30 days after its expiration, the registrant, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last.

SEC. 292. Section 4844 of the Business and Professions Code is amended to read:

4844. A person who fails to renew his *or her* certificate of registration within five years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter, but ~~such~~ *a* person may apply for and obtain a new certificate of registration if:

(a) He *or she* is not subject to denial of registration under Section 480.

(b) No fact, circumstance, or condition exists which, if the certificate of registration were issued, would justify its revocation or suspension.

(c) He *or she* takes and passes the examination, if any, which would be required of him *or her* if he *or she* were then applying for a certificate of registration for the first time, or otherwise establishes to the satisfaction of the ~~board~~ *department* that, with due regard for the public interest, he *or she* is qualified to be a registered animal health technician.

(d) He *or she* pays all of the fees that would be required of him *or her* if he *or she* were applying for the certificate of registration for the first time.

The ~~board~~ *department* may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a certificate of registration is issued without an examination pursuant to the provisions of this section.

SEC. 293. Section 4846 of the Business and Professions Code is amended to read:

4846. Applications for a license shall be upon a form furnished by the ~~board~~ *department* and, in addition, shall be accompanied by a diploma or other verification of graduation from a veterinary college recognized by the ~~board~~ *department*.

SEC. 294. Section 4846.1 of the Business and Professions Code is amended to read:

4846.1. If the veterinary college from which an applicant is graduated is not recognized by the ~~board~~ *department*, the ~~board~~ *department* shall have the authority to determine the qualifications of such graduates and to review the quality of the educational experience attained by them in an unrecognized veterinary college. The ~~board~~ *department* shall have the authority to adopt rules and regulations to implement this provision.

SEC. 295. Section 4846.2 of the Business and Professions Code is amended to read:

4846.2. If the ~~board~~ *department* finds in evaluating the graduate described in Section 4846.1 that ~~such~~ *the* applicant is deficient in qualification or in the quality of his *or her* educational experience the ~~board~~ *department* may require such applicant to fulfill such other remedial or other requirements as the ~~board~~ *department*, by regulation, may prescribe.

SEC. 296. Section 4846.4 of the Business and Professions Code is amended to read:

4846.4. (a) Each individual licensed by the ~~board~~ *department* shall biennially apply for renewal of his or her license or registration on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the ~~board~~ *department*.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The ~~board~~ *department* may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

SEC. 297. Section 4846.5 of the Business and Professions Code is amended to read:

4846.5. (a) On or after January 1, 2002, except as provided in this section, the ~~board~~ *department* shall issue renewal licenses only

to those applicants that have completed a minimum of 36 hours of continuing education in the preceding two years.

(b) (1) Notwithstanding any other provision of law, continuing education hours shall be earned by attending courses relevant to veterinary medicine and sponsored or cosponsored by any of the following:

(A) American Veterinary Medical Association (AVMA) accredited veterinary medical colleges.

(B) Accredited colleges or universities offering programs relevant to veterinary medicine.

(C) The American Veterinary Medical Association.

(D) American Veterinary Medical Association recognized specialty or affiliated allied groups.

(E) American Veterinary Medical Association's affiliated state veterinary medical associations.

(F) Nonprofit annual conferences established in conjunction with state veterinary medical associations.

(G) Educational organizations affiliated with the American Veterinary Medical Association or its state affiliated veterinary medical associations.

(H) Local veterinary medical associations affiliated with the California Veterinary Medical Association.

(I) Federal, state, or local government agencies.

(J) Providers accredited by the Accreditation Council for Continuing Medical Education (ACCME) or approved by the American Medical Association (AMA), providers recognized by the American Dental Association Continuing Education Recognition Program (ADA CERP), and AMA or ADA affiliated state, local, and specialty organizations.

(2) Continuing education credits shall be granted to those veterinarians taking self-study courses, which may include, but are not limited to, reading journals, viewing of videotapes, or listening to audiotapes. The taking of these courses shall be limited to no more than six hours biennially.

(3) The ~~board~~ *department* may approve other continuing veterinary medical education providers not specified in paragraph (1).

(A) The ~~board~~ *department* has the authority to recognize national continuing education approval bodies for the purpose of approving continuing education providers not specified in paragraph (1).

(B) Applicants seeking continuing education provider approval shall have the option of applying to the ~~board~~ *department* or to a ~~board-recognized~~ national approval body *recognized by the department*.

(4) For good cause, the ~~board~~ *department* may adopt an order specifying, on a prospective basis, that a provider of continuing veterinary medical education authorized pursuant to paragraphs (1) or (2) is no longer an acceptable provider.

(5) Continuing education hours earned by attending courses sponsored or cosponsored by those entities listed in paragraph (1) between January 1, 2000, and the effective date of this act shall be credited toward a veterinarian's continuing education requirement under this section.

(c) Every person renewing his or her license issued pursuant to Section 4846.4 or any person applying for relicensure or for reinstatement of his or her license to active status, shall submit proof of compliance with this section to the ~~board~~ *department* certifying that he or she is in compliance with this section. Any false statement submitted pursuant to this section shall be a violation subject to Section 4831.

(d) This section shall not apply to a veterinarian's first license renewal. This section shall apply only to second and subsequent license renewals granted on or after January 1, 2002.

(e) The ~~board~~ *department* shall have the right to audit the records of all applicants to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a period of four years and shall make these records available to the ~~board~~ *department* for auditing purposes upon request. If the ~~board~~ *department*, during this audit, questions whether any course reported by the veterinarian satisfies the continuing education requirement, the veterinarian shall provide information to the ~~board~~ *department* concerning the content of the course; the name of its sponsor and cosponsor, if any; and specify the specific curricula that was of benefit to the veterinarian.

(f) A veterinarian desiring an inactive license or to restore an inactive license under Section 701, shall submit an application on a form provided by the ~~board~~ *department*. In order to restore an inactive license to active status, the veterinarian shall have completed a minimum of 36 hours of continuing education within

the last two years preceding application. The inactive license status of a veterinarian shall not deprive the ~~board~~ *department* of its authority to institute or continue a disciplinary action against a licensee.

(g) Knowing misrepresentation of compliance with the requirements of this article by a veterinarian constitutes unprofessional conduct and grounds for disciplinary action or for the issuance of a citation and the imposition of a civil penalty pursuant to Section 4883.

(h) The ~~board~~ *department*, in its discretion, may exempt from the continuing education requirement, any veterinarian who for reasons of health, military service, or undue hardship, cannot meet those requirements. Applications for waivers shall be submitted on a form provided by the ~~board~~ *department*.

(i) The administration of this section may be funded through professional license and continuing education provider fees. The fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

(j) For those continuing education providers not listed in paragraph (1) of subdivision (b), the ~~board~~ *department* or its recognized national approval agent shall establish criteria by which a provider of continuing education shall be approved. The ~~board~~ *department* shall initially review and approve these criteria and may review the criteria as needed. The ~~board~~ *department* or its recognized agent shall monitor, maintain, and manage related records and data. The ~~board~~ *department* shall have the authority to impose an application fee, not to exceed two hundred dollars ($200) biennially, for continuing education providers not listed in paragraph (1) of subdivision (b).

SEC. 298. Section 4847 of the Business and Professions Code is amended to read:

4847. The ~~board~~ *department* shall number consecutively all applications received, note upon each the disposition made of it, and preserve the same for reference.

SEC. 299. Section 4848 of the Business and Professions Code is amended to read:

4848. (a) (1) The ~~board~~ *department* shall, by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state

and shall issue a license to every person whom it finds to be qualified. No license shall be issued to anyone who has not demonstrated his or her competency by examination.

(2) The examination shall consist of each of the following:

(A) A licensing examination that is administered on a national basis.

(B) A California state board examination.

(C) An examination concerning those statutes and regulations of the Veterinary Medicine Practice Act administered by the ~~board~~ *department*. The examination shall be administered by mail and provided to applicants within 10 to 20 days of eligibility determination. The ~~board~~ *department* shall have 10 to 20 days from the date of receipt to process the examination and provide candidates with the results of the examination. The applicant shall certify that he or she personally completed the examination. Any false statement is a violation subject to Section 4831. University of California and Western University of Health Sciences veterinary medical students who have successfully completed a ~~board~~ *department* approved course on veterinary law and ethics covering the Veterinary Medicine Practice Act shall be exempt from this provision.

(3) The examinations may be given at the same time or at different times as determined by the ~~board~~ *department*. For examination purposes, the ~~board~~ *department* may make contractual arrangements on a sole source basis with organizations furnishing examination material as it may deem desirable and shall be exempt from Section 10115 of the Public Contract Code.

(4) The licensing examination may be waived by the ~~board~~ *department* in any case in which it determines that the applicant has taken and passed an examination for licensure in another state substantially equivalent in scope and subject matter to the licensing examination last given in California before the determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass the licensing examination administered in California.

(5) Nothing in this chapter shall preclude the ~~board~~ *department* from permitting a person who has completed a portion of his or her educational program, as determined by the ~~board~~ *department*, in a veterinary college recognized by the ~~board~~ *department* under Section 4846 to take any examination or any part thereof prior to

satisfying the requirements for application for a license established by Section 4846.

(b) The ~~board~~ *department* shall waive the examination requirements of subdivision (a), and issue a temporary license valid for one year to an applicant to practice veterinary medicine under the supervision of another licensed California veterinarian in good standing if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:

(1) The applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and has practiced clinical veterinary medicine for a minimum of four years full time within the five years immediately preceding filing an application for licensure in this state. Experience obtained while participating in an American Veterinary Medical Association (AVMA) accredited institution's internship, residency, or specialty ~~board~~ *department* training program shall be valid for meeting the minimum experience requirement.

The term "in good standing" means that an applicant under this section:

(A) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of veterinary medicine by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of veterinary medicine that the ~~board~~ *department* determines constitutes evidence of a pattern of incompetence or negligence.

(B) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the applicant is unable to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public.

(2) At the time of original licensure, the applicant passed the national licensing requirement in veterinary science with a passing score or scores on the examination or examinations equal to or greater than the passing score required to pass the national licensing examination or examinations administered in this state.

(3) The applicant has either graduated from a veterinary college recognized by the ~~board~~ *department* under Section 4846 or possesses a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG).

(4) The applicant passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the ~~board~~ *department*, pursuant to subparagraph (C) of paragraph (2) of subdivision (a).

(5) The applicant agrees to complete an approved educational curriculum on regionally specific and important diseases and conditions during the period of temporary licensure. The ~~board~~ *department*, in consultation with the California Veterinary Medical Association (CVMA), shall approve educational curricula that cover appropriate regionally specific and important diseases and conditions that are common in California. The curricula shall focus on small and large animal diseases consistent with the current proportion of small and large animal veterinarians practicing in the state. The approved curriculum shall not exceed 30 hours of educational time. The ~~board~~ *department* shall approve a curriculum as soon as practical, but not later than June 1, 1999. The approved curriculum may be offered by multiple providers so that it is widely accessible to candidates licensed under this subdivision.

(c) Upon receipt of acknowledgment of successful completion of the requirements set forth in subdivision (b), the ~~board~~ *department* shall issue a license to the applicant. Any applicant who does not meet the requirements of subdivision (b) shall take a California state board examination as specified in subparagraph (B) of paragraph (2) of subdivision (a).

(d) The ~~board~~ *department*, in its discretion, may extend the expiration date of a temporary license issued pursuant to subdivision (b) for not more than one year for reasons of health, military service, or undue hardship. An application for an extension shall be submitted on a form provided by the ~~board~~ *department*.

SEC. 300. Section 4848.3 of the Business and Professions Code is amended to read:

4848.3. (a) The ~~board~~ *department* shall issue a temporary license valid for one year to an applicant accepted into a qualifying internship or residency program that meets all of the following requirements:

(1) Program participants have either graduated from a veterinary college recognized by the ~~board~~ *department* under Section 4846 or possess a certificate issued by the Educational Commission for Foreign Veterinary Graduates, and hold a current valid license in good standing in another state, Canadian province, or United States territory.

(2) Program participants are under the direct supervision of a ~~board-certified~~ *department–certified* California-licensed veterinarian in good standing.

(3) Two or more ~~board-certified~~ *department–certified* specialists are on the staff of the veterinary practice.

(4) The program undergoes annual evaluation and is approved by one or more existing organizations officially recognized for that purpose by the ~~board~~ *department*. The ~~board~~ *department* shall designate one or more organizations for this purpose no later than January 31, 1999, and the evaluation and approval process shall begin no later than March 1, 1999.

(b) The temporary license issued pursuant to this section shall only be valid for activities performed in the course of, and incidental to, a qualifying internship or residency program.

SEC. 301. Section 4849 of the Business and Professions Code is amended to read:

4849. The complete examination shall be given at least once each year. It shall include all such subjects as are ordinarily included in the curricula of veterinary colleges in good standing and may include such other subjects as the ~~board~~ *department* may by rule authorize and direct.

SEC. 302. Section 4852 of the Business and Professions Code is amended to read:

4852. Every person holding a license issued under this chapter who changes his or her mailing address shall notify the ~~board~~ *department* of his or her new mailing address within 30 days of the change. The ~~board~~ *department* shall not renew the license of any person who fails to comply with this section unless the person pays the penalty fee prescribed in Section 4905. An applicant for the renewal of a license shall specify in his or her application whether he or she has changed his or her mailing address and the ~~board~~ *department* may accept that statement as evidence of the fact.

SEC. 303. Section 4853 of the Business and Professions Code is amended to read:

4853. (a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the ~~board~~ *department*. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the ~~board~~ *department* when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the ~~board~~ *department*, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the ~~board~~ *department* if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

SEC. 304. Section 4853.1 of the Business and Professions Code is amended to read:

4853.1. (a) Each application to register a premise pursuant to Section 4853 shall be made on a form provided by the ~~board~~ *department*. An application for renewal of that registration shall be made annually.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The ~~board~~ *department* may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

SEC. 305. Section 4853.5 of the Business and Professions Code is amended to read:

4853.5. When it has been adjudicated in an administrative hearing that the licensee manager has failed to keep the premises and all equipment therein in a clean and sanitary condition as provided for in subdivision (h) of Section 4883, or is in violation of any of the provisions of Section 4854, the ~~board~~ *department* may withhold, suspend, or revoke the registration of veterinary premises, or assess a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) per day until such violation has been rectified, or by both such suspension and fine. The total amount of any fine assessed pursuant to this section shall not exceed five thousand dollars ($5,000).

SEC. 306. Section 4853.6 of the Business and Professions Code is amended to read:

4853.6. The ~~board~~ *department* shall withhold, suspend, or revoke registration of veterinary premises:

(a) When the licensee manager set forth in the application in accordance with Section 4853 ceases to become responsible for management of the registered premises and no substitution of the responsible licensee manager has been made by application as provided for in Section 4853.

(b) When the licensee manager has, under proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the license to practice veterinary medicine, surgery, and dentistry revoked or suspended.

SEC. 307. Section 4854 of the Business and Professions Code is amended to read:

4854. All premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced, and all instruments, apparatus, and apparel used in connection with those practices, shall be kept clean and sanitary at all times, and shall conform to those minimum standards established by the ~~board~~ *department*.

SEC. 308. Section 4855 of the Business and Professions Code is amended to read:

4855. A veterinarian subject to the provisions of this chapter shall, as required by regulation of the ~~board~~ *department*, keep a written record of all animals receiving veterinary services, and provide a summary of that record to the owner of animals receiving veterinary services, when requested. The minimum amount of information which shall be included in written records and summaries shall be established by the ~~board~~ *department*. The minimum duration of time for which a licensed premise shall retain the written record or a complete copy of the written record shall be determined by the ~~board~~ *department*.

SEC. 309. Section 4856 of the Business and Professions Code is amended to read:

4856. (a) All records required by law to be kept by a veterinarian subject to this chapter, including, but not limited to, records pertaining to diagnosis and treatment of animals and records pertaining to drugs or devices for use on animals, shall be open to inspection by the ~~board~~ *department*, or its authorized representatives, during an inspection as part of a regular inspection program by the ~~board~~ *department*, or during an investigation initiated in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the ~~board~~ *department*. A copy of all those records shall be provided to the ~~board~~ *department* immediately upon request.

(b) Equipment and drugs on the premises, or any other place, where veterinary medicine, veterinary dentistry, veterinary surgery, or the various branches thereof is being practiced, or otherwise in the possession of a veterinarian for purposes of that practice, shall be open to inspection by the ~~board~~ *department*, or its authorized representatives, during an inspection as part of a regular inspection program by the ~~board~~ *department*, or during an investigation initiated in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the ~~board~~ *department*.

SEC. 310. Section 4860 of the Business and Professions Code is amended to read:

4860. It is the intent of the Legislature that the ~~Veterinary Medical Board~~ *department* seek ways and means to identify and rehabilitate veterinarians and registered veterinary technicians with

impairment due to abuse of dangerous drugs or alcohol, affecting competency so that veterinarians and registered veterinary technicians so afflicted may be treated and returned to the practice of veterinary medicine in a manner that will not endanger the public health and safety.

SEC. 311. Section 4861 of the Business and Professions Code is amended to read:

4861. One or more diversion evaluation committees is hereby authorized to be established by the ~~board~~ *department*. Each diversion evaluation committee shall be composed of five persons appointed by the ~~board~~ *department*.

Each diversion evaluation committee shall have the following composition:

(a) Three veterinarians licensed under this chapter. The ~~board~~ *department* in making its appointments shall give consideration to recommendations of veterinary associations and local veterinary societies and shall consider, among others, where appropriate, the appointment of veterinarians who have recovered from impairment or who have knowledge and expertise in the management of impairment.

(b) Two public members.

Each person appointed to a diversion evaluation committee shall have experience or knowledge in the evaluation or management of persons who are impaired due to ~~alchohol~~ *alcohol* or drug abuse.

~~It shall require the majority vote of the board to appoint a person to a diversion evaluation committee. Each~~

Each appointment shall be at the pleasure of the ~~board~~ *department* for a term not to exceed four years. In its discretion the ~~board~~ *department* may stagger the terms of the initial members appointed.

The ~~board~~ *department* may appoint a program director and other personnel as necessary to carry out provisions of this article.

SEC. 312. Section 4865 of the Business and Professions Code is amended to read:

4865. The ~~board~~ *department* shall administer the provisions of this article.

SEC. 313. Section 4866 of the Business and Professions Code is amended to read:

4866. (a) The ~~board~~ *department* shall establish criteria for the acceptance, denial, or termination of veterinarians and animal

health technicians in a diversion program. Only those veterinarians and animal health technicians who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a program.

(b) The ~~board~~ *department* shall establish criteria for the selection of administrative physicians who shall examine veterinarians and animal health technicians requesting diversion under a program. Any reports made under this article by the administrative physician shall constitute an exception to Sections 994 and 995 of the Evidence Code.

(c) The diversion program may accept no more than 100 participants who are licensees of the ~~board~~ *department*.

SEC. 314. Section 4868 of the Business and Professions Code is amended to read:

4868. Each diversion evaluation committee shall have the following duties and responsibilities:

(a) To evaluate those veterinarians and animal health technicians who request participation in the program according to the guidelines prescribed by the ~~board~~ *department* and to consider the recommendation of the administrative physician on the admission of the veterinarian or animal health technician to the diversion program.

(b) To review and designate those treatment facilities to which veterinarians and animal health technicians in a diversion program may be referred.

(c) To receive and review information concerning veterinarians and animal health technicians participating in the program.

(d) To call meetings as necessary to consider the requests of veterinarians and animal health technicians to participate in a diversion program, and to consider reports regarding veterinarians and animal health technicians participating in a program from an administrative physician, or from others.

(e) To consider in the case of each veterinarian and animal health technician participating in a program whether he or she may with safety continue or resume the practice of veterinary medicine or the assisting in the practice of veterinary medicine.

(f) To set forth in writing for each veterinarian and animal health technician participating in a program a treatment program established for each such veterinarian and animal health technician with the requirements for supervision and surveillance.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the program's progress, to review data as required in reports to the ~~board~~ *department*, to prepare reports to be submitted to the ~~board~~ *department*, and to suggest proposals for changes in the diversion program.

SEC. 315. Section 4871 of the Business and Professions Code is amended to read:

4871. (a) After a diversion evaluation committee in its discretion has determined that a veterinarian or animal health technician has been rehabilitated and the diversion program is completed, the diversion evaluation committee shall purge and destroy all records pertaining to the veterinarian's or animal health technician's participation in a diversion program.

(b) All ~~board~~ *department* and diversion evaluation committee records and records of proceedings pertaining to the treatment of a veterinarian or animal health technician in a program shall be kept confidential and are not subject to discovery or subpoena.

SEC. 316. Section 4872 of the Business and Professions Code is amended to read:

4872. The ~~board~~ *department* shall provide for the representation of any persons making reports to a diversion evaluation committee or the ~~board~~ *department* under this article in any action for defamation.

SEC. 317. Section 4873 of the Business and Professions Code is amended to read:

4873. The ~~board~~ *department* shall charge each veterinarian and animal health technician who is accepted to participate in the diversion program a diversion program registration fee. The diversion program registration fee shall be set by the ~~board~~ *department* in an amount not to exceed sixteen hundred dollars ($1,600). In the event that the diversion program registration exceeds two hundred dollars ($200), the ~~board~~ *department* may provide for quarterly payments.

SEC. 318. Section 4875 of the Business and Professions Code is amended to read:

4875. The ~~board~~ *department* may revoke or suspend for a certain time the license of any person to practice veterinary medicine or any branch thereof in this state after notice and hearing for any of the causes provided in this article. In addition to its authority to suspend or revoke a license, the ~~board~~ *department*

shall have the authority to assess a fine not in excess of five thousand dollars ($5,000) against a licensee for any of the causes specified in Section 4883. A fine may be assessed in lieu of or in addition to a suspension or revocation. The proceedings under this article 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 ~~board~~ *department* shall have all the powers granted therein. Notwithstanding the provisions of Section 4903, all fines collected pursuant to this section shall be deposited to the credit of the Veterinary Medical Board Contingent Fund.

SEC. 319. Section 4875.2 of the Business and Professions Code is amended to read:

4875.2. If, upon completion of an investigation, the executive officer has probable cause to believe that a veterinarian or an unlicensed person acting as a veterinarian has violated provisions of this chapter, he or she may issue a citation to the veterinarian or unlicensed person, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty. The citation shall be served upon the veterinarian or unlicensed individual personally or by any type of mailing requiring a return receipt. Before any citation may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one designee of the ~~board~~ *department* who is a veterinarian licensed in or employed by the state. The review shall include attempts to contact the veterinarian or unlicensed person to discuss and resolve the alleged violation. Upon conclusion of the ~~board~~ *department* designee's review, the designee shall prepare a finding of fact and a recommendation. If the ~~board~~ *department* designee concludes that probable cause exists that the veterinarian or unlicensed person has violated any provisions of this chapter, a civil citation shall be issued to the veterinarian or unlicensed person.

SEC. 320. Section 4875.4 of the Business and Professions Code is amended to read:

4875.4. (a) The ~~board~~ *department* shall, in the manner prescribed in Section 4808, adopt regulations covering the assessment of civil penalties under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the person being charged.

(3) The history of previous violations.

(b) In no event shall the civil penalty for each citation issued be assessed in an amount greater than five thousand dollars ($5,000).

(c) Regulations adopted by the ~~board~~ *department* shall be pursuant to the procedures for citations and fines in accordance with Section 125.9.

SEC. 321. Section 4875.6 of the Business and Professions Code is amended to read:

4875.6. (a) If a veterinarian or an unlicensed person desires to administratively contest a civil citation or the proposed assessment of a civil penalty therefor, he or she shall, within 10 business days after receipt of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference. At the conclusion of the informal conference, the executive officer may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty, and he or she shall state with particularity in writing his or her reasons for the action, and shall immediately transmit a copy thereof to the ~~board~~ *department*, the veterinarian or unlicensed person, and the person who submitted the verified complaint. If the veterinarian or unlicensed person desires to administratively contest under subdivision (c) a decision made after the informal conference, he or she shall inform the executive officer in writing within 30 calendar days after he or she receives the decision resulting from the informal conference.

If the veterinarian or unlicensed person fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed

assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the ~~board~~ *department* and shall not be subject to further administrative review.

Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(b) A veterinarian or an unlicensed person may, in lieu of contesting a citation pursuant to this section, transmit to the ~~board~~ *department* the amount assessed in the citation as a civil penalty, within 10 business days after receipt of the citation. An unlicensed person may notify the ~~board~~ *department* and file a petition for a writ of administrative mandamus under Section 1094.5 of the Code of Civil Procedure within 30 calendar days after receipt of the citation, without engaging in an informal conference or administrative hearing. If a petition is not filed pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

(c) If a veterinarian or an unlicensed person has notified the executive officer that he or she intends to administratively contest the decision made after the informal conference, the executive officer shall forward the matter to the Attorney General's office who shall prepare a notice of appeal of the citation and civil penalty. After the hearing, the ~~board~~ *department* and administrative law judge shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a veterinarian or unlicensed person to comply with any provision of the ~~board's~~ *department's* decision constitutes grounds for suspension, or denial of licensure, or both. The administrative proceedings under this section shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the ~~board~~ *department* shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section or if the time for all appeals has passed, the ~~board~~ *department* may bring an action in the appropriate court in the county in which the offense occurred to recover the civil penalty and obtain an order compelling the cited person to comply with

the order of abatement. In that action, the complaint shall include a certified copy of the final order of the ~~board~~ *department*, together with the factual findings and determinations of the ~~board~~ *department* and administrative law judge. The findings shall be prima facie evidence of the facts stated therein, and in the absence of contrary evidence may serve as the basis for the issuance of the judgment and order.

(e) Failure of a licensee to pay a civil penalty within 30 days of the date of receipt of the assessment, unless the citation is being appealed, may result in disciplinary action being taken by the ~~board~~ *department*. When a citation is not contested and a civil penalty is not paid, the full amount of the assessed civil penalty shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and civil penalty.

(f) Any civil penalties received under this chapter shall be deposited in the Veterinary Medical Board Contingent Fund.

SEC. 322. Section 4876 of the Business and Professions Code is amended to read:

4876. In addition to its authority to suspend or revoke a license, or assess a fine of a person licensed under this chapter, the ~~board~~ *department* shall have the authority to place a licensee on probation. The authority of the ~~board~~ *department* to discipline by placing the licensee on probation shall include, but is not limited to, the following:

(a) Requiring the licensee to complete a course of study or service, or both, as prescribed by the ~~board~~ *department*, and to demonstrate renewed competence to the satisfaction of the ~~board~~ *department*.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the ~~board~~ *department*. If the ~~board~~ *department* requires a licensee to submit to such an examination, the ~~board~~ *department* shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee.

SEC. 323. Section 4881 of the Business and Professions Code is amended to read:

4881. The executive officer in all cases of suspension, revocation, or restriction of licenses or assessment of fines shall

enter on the register the fact of suspension, revocation, restriction, or fine, as the case may be. The record of any suspension, revocation, restriction, or fine so made by the county clerks shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of the ~~board~~ *department* in the matter of the suspension, revocation, restriction, or fine.

SEC. 324. Section 4883 of the Business and Professions Code is amended to read:

4883. The ~~board~~ *department* may deny, revoke, or suspend a license or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

(b) For having professional connection with, or lending one's name to, any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the state to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising.

(g) Unprofessional conduct, that includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The ~~board~~ *department* may order the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea

of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(2) (A) The use of or prescribing for or administering to himself or herself, any controlled substance.

(B) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed to conduct with safety the practice authorized by the license.

(C) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof, and the record of the conviction is conclusive evidence.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The ~~board~~ *department* may order the license suspended or revoked or assess a fine, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.

(h) Failure to keep one's premises and all equipment therein in a clean and sanitary condition.

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts that are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining the license.

(*l*) The revocation, suspension, or other discipline by another state or territory of a license or certificate to practice veterinary medicine in that state or territory.

(m) Cruelty to animals, conviction on a charge of cruelty to animals, or both.

(n) Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of veterinary medicine.

(o) Violation, or the assisting or abetting violation, of any regulations adopted by the ~~board~~ *department* pursuant to this chapter.

SEC. 325. Section 4885 of the Business and Professions Code is amended to read:

4885. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense related to the practice of veterinary medicine is deemed to be a conviction within the meaning of this article. The ~~board~~ *department* may order the license suspended or revoked, or assess a fine as provided in Section 4883 or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his *or her* plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 326. Section 4886 of the Business and Professions Code is amended to read:

4886. In reinstating a license which has been revoked or suspended under Section 4883, the ~~board~~ *department* may impose terms and conditions to be followed by the licensee after the certificate has been reinstated. The authority of the ~~board~~ *department* to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon completion of the training.

(b) Requiring the licensee to pass an oral, written, practical , or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of veterinary medicine.

(c) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the ~~board~~

department. If the ~~board~~ *department* requires the licensee to submit to such an examination, the ~~board~~ *department* shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(d) Restricting or limiting the extent, scope, or type of practice of the licensee.

SEC. 327. Section 4887 of the Business and Professions Code is amended to read:

4887. A person whose license has been revoked or who has been placed on probation may petition the ~~board~~ *department* for reinstatement or modification of penalty including modification or termination of probation after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action. The petition shall state such facts as may be required by the ~~board~~ *department*.

The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the ~~board~~ *department* who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the ~~board~~ *department*. The ~~board~~ *department* may consider all activities of the petitioner since the ~~discipinary~~ *disciplinary* action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the certificate was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the ~~board~~ *department* finds necessary.

The ~~board~~ *department* reinstating the license or modifying a penalty may impose such terms and conditions as it determines necessary. To reinstate a revoked certificate or to otherwise reduce a penalty or modify probation shall require a ~~vote of four of the members of~~ *determination by* the ~~board~~ *department*.

The petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The ~~board~~ *department* may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

SEC. 328. Section 4900 of the Business and Professions Code is amended to read:

4900. (a) All veterinary licenses and animal health technician certificates shall expire at 12 midnight of the last day of the birth month of the licensee or certificate holder during the second year of a two-year term if not renewed.

(b) The ~~board~~ *department* shall establish by regulation procedures for the administration of a birthdate renewal program, including, but not limited to, the establishment of a system of staggered license and certificate expiration dates and a pro rata formula for the payment of renewal fees by veterinarians and animal health technicians affected by the implementation of the program.

(c) To renew an unexpired license or certificate, the licensee or certificate holder shall, on or before the date of expiration of the license or certificate, apply for renewal on a form provided by the ~~board~~ *department*, accompanied by the prescribed renewal fee.

(d) Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license or certificate shall continue in effect through the expiration date provided in this section which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

SEC. 329. Section 4901 of the Business and Professions Code is amended to read:

4901. Except as otherwise provided in this chapter, an expired license may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the ~~board~~ *department*, and payment of all accrued and unpaid renewal fees. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 4900 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 330. Section 4902 of the Business and Professions Code is amended to read:

4902. A person who fails to renew his *or her* license within five years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new license if:

(a) He *or she* is not subject to denial of licensure under Section 480.

(b) He *or she* takes and passes the examination, if any, which would be required of him *or her* if he *or she* were then applying for a license for the first time, or otherwise establishes to the satisfaction of the ~~board~~ *department* that, with due regard for the public interest, he *or she* is qualified to practice veterinary ~~medicine, and~~ *medicine.*

(c) He *or she* pays all of the fees that would be required of him *or her* if he *or she* were then applying for the license for the first time.

The ~~board~~ *department* may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination pursuant to the provisions of this section.

SEC. 331. Section 4904 of the Business and Professions Code is amended to read:

4904. All fees collected on behalf of the ~~board~~ *department* and all receipts of every kind and nature shall be reported each month for the month preceding to the ~~State~~ Controller and at the same time the entire amount shall be paid into the State Treasury and shall be credited to the Veterinary Medical Board Contingent Fund. This contingent fund shall be for the use of the ~~Veterinary Medical Board~~ *department* and out of it and not otherwise shall be paid all expenses of the ~~board~~ *department*.

SEC. 332. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the ~~board~~ *department* and shall be credited to the Veterinary Medical Board Contingent Fund:

(a) The fee for filing an application for examination shall be set by the ~~board~~ *department* in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred dollars ($100).

(b) The fee for the licensing examination shall be set by the ~~board~~ *department* in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred twenty-five dollars ($325).

(c) The fee for the California state board examination shall be set by the ~~board~~ *department* in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred fifty dollars ($150).

(d) The fee for the Veterinary Medicine Practice Act examination shall be set by the ~~board~~ *department* in an amount it determines reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed fifty dollars ($50).

(e) The initial license fee shall be set by the ~~board~~ *department* not to exceed two hundred fifty dollars ($250) except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the ~~board~~ *department* at not to exceed one hundred twenty-five dollars ($125). The ~~board~~ *department* may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(f) The renewal fee shall be set by the ~~board~~ *department* for each biennial renewal period in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed two hundred fifty dollars ($250).

(g) The temporary license fee shall be set by the ~~board~~ *department* in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred twenty-five dollars ($125).

(h) The delinquency fee shall be set by the ~~board~~ *department*, not to exceed twenty-five dollars ($25).

(i) The fee for issuance of a duplicate license is ten dollars ($10).

(j) The ~~board~~ *department* may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(k) The fee for failure to report a change in the mailing address is fifteen dollars ($15).

(*l*) The initial and annual renewal fees for registration of veterinary premises shall be set by the ~~board~~ *department* in an amount not to exceed one hundred dollars ($100) annually.

(m) If the money transferred from the Veterinary Medical Board Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Veterinary Medical Board Contingent Fund, the fees assessed by the ~~board~~ *department* shall be reduced correspondingly. However, the reduction shall not be so great as to cause the Veterinary Medical Board Contingent Fund to have a reserve of less than three months of annual authorized ~~board~~ *department* expenditures. The fees set by the ~~board~~ *department* shall not result in a Veterinary Medical Board Contingent Fund reserve of more than 10 months of annual authorized ~~board~~ *department* expenditures.

SEC. 333. Section 4916 of the Business and Professions Code is amended to read:

4916. The ~~board~~ *department* may formulate and enforce rules and regulations to carry out the purposes and the objectives of this article, including rules and regulations requiring (1) that the articles of incorporation or bylaws of a veterinary corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within such time as such rules and regulations may provide, and (2) that a veterinary corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 334. Section 4925 of the Business and Professions Code is amended to read:

4925. (a) This chapter constitutes the chapter on acupuncture of the Business and Professions Code.

This chapter shall be known and may be cited as the Acupuncture Licensure Act. Whenever a reference is made to the Acupuncture Licensure Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

(b) Any reference in this chapter, or to the regulations pertaining thereto, to "certificate" or "certification" shall hereafter mean "license" or "licensure." Any reference to the term "certifying" means "licensing," and the term "certificate holder" means

"licensee." Any reference to ~~the "Acupuncture Committee" or "committee" means~~ the "Acupuncture Board" or ~~"board."~~ *"board" means the Department of Consumer Affairs.*

SEC. 335. Section 4927 of the Business and Professions Code is amended to read:

4927. As used in this chapter, unless the context otherwise requires:

(a) ~~"Board" means the Acupuncture 'Board"~~ *"Department" means the Department of Consumer Affairs*.

(b) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(c) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

SEC. 336. Section 4928 of the Business and Professions Code is amended to read:

4928. The ~~Acupuncture Board, which consists of seven members,~~ *department* shall enforce and administer this chapter. The appointing powers, as described in Section 4929, may appoint to the board a person who was a member of the prior board prior to the repeal of that board on January 1, 2006.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 337. Section 4928.1 of the Business and Professions Code is amended to read:

4928.1. Protection of the public shall be the highest priority for the ~~Acupuncture Board~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection

of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 338. Section 4929 of the Business and Professions Code is repealed.

~~4929. Three members of the board shall be acupuncturists with at least five years of experience in acupuncture and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist. The acupuncturist members shall be appointed to represent a cross section of the cultural backgrounds of licensed members of the acupuncturist profession.~~

~~The Governor shall appoint the three acupuncturist members and two of the public members. All members appointed to the board by the Governor shall be subject to confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. Any member of the board may be removed by the appointing power for neglect of duty, misconduct, or malfeasance in office, after being provided with a written statement of the charges and an opportunity to be heard.~~

SEC. 339. Section 4930 of the Business and Professions Code is repealed.

~~4930. Each member of the board shall be appointed for a term of four years.~~

SEC. 340. Section 4931 of the Business and Professions Code is repealed.

~~4931. Each member of the board shall receive per diem and expenses as provided in Section 103.~~

SEC. 341. Section 4933 of the Business and Professions Code is amended to read:

4933. (a) The ~~board~~ *department* shall administer this chapter.

(b) The ~~board~~ *department* may adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture.

~~(c) Five members of the board shall constitute a quorum to conduct business.~~

~~(d) It shall require an affirmative vote of a majority of those present at a meeting of the board to take any action or pass any motion.~~

SEC. 342. Section 4934 of the Business and Professions Code is amended to read:

4934. (a) The ~~board, by and with the approval of the director,~~ *department* may employ personnel necessary for the administration of this chapter~~, and the board, by and with the approval of the director, may appoint an executive officer who is exempt from the provisions of the Civil Service Act~~.

(b) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 343. Section 4934.1 of the Business and Professions Code is repealed.

~~4934.1. (a) The Legislature requests the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy to conduct a comprehensive analysis consisting of the following reviews and evaluations and shall report their findings and recommendations to the Legislature by September 1, 2004:~~

~~(1) Review and make recommendations on the scope of practice for acupuncturists.~~

~~(2) Review and make recommendations on the educational requirements for acupuncturists.~~

~~(3) Evaluate the national examination, administered by the National Certification Commission for Acupuncture and Oriental Medicine, and make recommendations as to whether or not the national examination should be offered in California in lieu of, or as part of, the state examination.~~

~~(4) Evaluate and make recommendations on the approval process of the Accreditation Commission of Acupuncture and Oriental Medicine, the approval process of the Bureau for Private Postsecondary Education, and the board's approval process.~~

~~(b) The board shall pay for all of the costs associated with the comprehensive analysis. An amount to pay for all of the costs associated with the comprehensive analysis, up to two hundred fifty thousand dollars ($250,000), is hereby appropriated to the board from the Acupuncture Fund.~~

SEC. 344. Section 4934.2 of the Business and Professions Code is repealed.

~~4934.2. The board shall conduct the following studies and reviews, and shall report its findings and recommendations to the department and the Joint Committee on Boards, Commissions, and Consumer Protection no later that September 1, 2004:~~

~~(a) The board shall conduct a comprehensive study of the use of unlicensed acupuncture assistants and the need to license and regulate those assistants.~~

~~(b) The board shall study and recommend ways to improve the frequency and consistency of their auditing and the quality and relevance of their courses.~~

SEC. 345. Section 4935 of the Business and Professions Code is amended to read:

4935. (a) (1) It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) and not more than two thousand five hundred dollars ($2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who does not hold a current and valid license to practice acupuncture under this chapter or to hold himself or herself out as practicing or engaging in the practice of acupuncture.

(2) It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) and not more than two thousand five hundred dollars ($2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person to fraudulently buy, sell, or obtain a license to practice acupuncture, or to violate the provisions of this chapter.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words “acupuncture,” “acupuncturist,”

"certified acupuncturist," "licensed acupuncturist," "Asian medicine," "oriental medicine," or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, Asian medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the ~~board~~ *department* and participating in a postgraduate review course that does not exceed one year in duration at a school approved by the ~~board~~ *department*.

SEC. 346. Section 4938 of the Business and Professions Code is amended to read:

4938. The ~~board~~ *department* shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) An educational and training program approved by the ~~board~~ *department* pursuant to Section 4939.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist which is approved by the ~~board~~ *department*.

(3) In the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the ~~board~~ *department* that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Examination Resources of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the ~~board~~ *department*. The clinical internship training program shall not exceed nine months in duration and shall be located in a

clinic in this state, which is approved by the ~~board~~ *department* pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 347. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) On or before January 1, 2004, the ~~board~~ *department* shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Standards for the approval of training programs shall include a minimum of 3,000 hours of study in curriculum pertaining to the practice of an acupuncturist. This subdivision shall apply to all students entering programs on or after January 1, 2005.

(c) Within three years of initial approval by the ~~board~~ *department*, each program so approved by the ~~board~~ *department* shall receive full institutional approval under Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code in the field of traditional Asian medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code, or the ~~board's~~ *department's* approval of the program shall automatically lapse.

SEC. 348. Section 4940 of the Business and Professions Code is amended to read:

4940. (a) The ~~board~~ *department* shall establish standards for the approval of tutorial programs for education and training in the practice of acupuncture, that satisfy the requirements of Section

4938. The ~~board~~ *department* shall also establish standards for the approved supervising acupuncturists.

(b) An acupuncturist shall be approved to supervise a trainee, provided the supervisor meets the following conditions:

(1) Is licensed to practice acupuncture in this state and that license is current, valid, and has not been suspended or revoked or otherwise subject to disciplinary action.

(2) Has filed an application with the ~~board~~ *department*.

(3) Files with the ~~board~~ *department* the name of each trainee to be trained or employed and a training program satisfactory to the ~~board~~ *department*.

(4) Does not train or employ more than two acupuncture trainees at any one time.

(5) Has at least 10 years of experience practicing as an acupuncturist and has been licensed in this state for at least five years.

(6) Is found by the ~~board~~ *department* to have the knowledge necessary to educate and train the trainee in the practice of an acupuncturist.

The amendments made to this section at the 1993 portion of the 1993–94 Regular Session of the Legislature shall not affect the approval of any supervising acupuncturist which has been issued prior to the effective date of those amendments.

SEC. 349. Section 4941 of the Business and Professions Code is amended to read:

4941. In reviewing applications for licensure based upon the completion of a tutorial program in acupuncture, the ~~board~~ *department* may provide that credit is granted for relevant prior training and experience when that training or experience otherwise meets the standards set by the ~~board~~ *department*.

SEC. 350. Section 4944 of the Business and Professions Code is amended to read:

4944. (a) The ~~board~~ *department* shall have the authority to investigate and evaluate each and every applicant applying for a license to practice acupuncture and to make the final determination of the admission of the applicant to the examination, or for the issuance of a license, in conformance with the provisions of this chapter.

(b) The ~~board~~ *department* shall investigate and evaluate each school or college applying for approval under Section 4939 and

may utilize and contract with consultants to evaluate those training programs.

(c) The ~~board~~ *department* may delegate to ~~the executive officer or other~~ *another* official of the ~~board~~ *department* its authority under this section in routine matters.

SEC. 351. Section 4945 of the Business and Professions Code, as amended by Section 1 of Chapter 648 of the Statutes of 2000, is amended to read:

4945. (a) The ~~board~~ *department* shall establish standards for continuing education for acupuncturists.

(b) The ~~board~~ *department* shall require each acupuncturist to complete 50 hours of continuing education every two years as a condition for renewal of his or her license. No more than five hours of continuing education in each two-year period may be spent on issues unrelated to clinical matters or the actual provision of health care to patients. A provider of continuing education shall apply to the ~~board~~ *department* for approval to offer continuing education courses for credit toward this requirement on a form developed by the ~~board~~ *department*, shall pay a fee covering the cost of approval and for the monitoring of the provider by the ~~board~~ *department* and shall set forth the following information on the application:

(1) Course content.

(2) Test criteria.

(3) Hours of continuing education credit requested for the course.

(4) Experience and training of instructors.

(5) Other information as required by the ~~board~~ *department*.

(6) That interpreters or bilingual instruction will be made available, when necessary.

(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.

(d) Providers of continuing education shall be monitored by the ~~board~~ *department* as determined by the ~~board~~ *department*.

(e) If the ~~board~~ *department* determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement

of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the ~~board~~ *department*.

SEC. 352. Section 4945 of the Business and Professions Code, as amended by Section 15 of Chapter 983 of the Statutes of 1991, is repealed.

~~4945. (a) The committee shall establish standards for continuing education for acupuncturists.~~

~~(b) The committee shall require each acupuncturist to complete 15 hours of continuing education every year as a condition for renewal of his or her certificate. A provider of continuing education shall apply to the committee for approval to offer continuing education courses for credit toward this requirement on a form developed by the committee, shall pay a fee covering the cost of approval and for the monitoring of the provider by the committee and shall set forth the following information on the application:~~

~~(1) Course content.~~

~~(2) Test criteria.~~

~~(3) Hours of continuing education credit requested for the course.~~

~~(4) Experience and training of instructors.~~

~~(5) Other information as required by the committee.~~

~~(6) That interpreters or bilingual instruction will be made available, when necessary.~~

~~(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.~~

~~(d) Providers of continuing education shall be monitored by the committee as determined by the committee.~~

~~(e) If the committee determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the committee.~~

~~(f) This section shall remain in effect only until January 1, 1996, and shall have no force or effect on or after that date, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.~~

SEC. 353. Section 4974 of the Business and Professions Code is amended to read:

4974. The ~~board~~ *department* shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Acupuncture Fund, which fund is created to carry out the provisions of this chapter.

SEC. 354. Section 4979 of the Business and Professions Code is amended to read:

4979. The ~~board~~ *department* may adopt and enforce regulations to carry out the purposes and objectives of this article, including, but not limited to, regulations requiring (a) that the bylaws of an acupuncture corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time the regulations may provide, and (b) that an acupuncture corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 355. Section 4980.03 of the Business and Professions Code is amended to read:

4980.03. (a) ~~"Board,"~~ *"Director" or "department"* as used in this chapter, means the ~~Board of Behavioral Sciences~~ *Department of Consumer Affairs and its director. Whenever "Board of Behavioral Sciences" is used in any law or regulation of this state it shall mean the Department of Consumer Affairs. Any reference to the executive officer shall be deemed to be a reference to the director or his or her designee*.

(b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the ~~board~~ *department*.

(c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctor's degree

program, as specified in Section 4980.40, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(d) "Applicant," as used in this chapter, means an unlicensed person who has completed a master's or doctoral degree program, as specified in Section 4980.40, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements for licensure as specified in this chapter, is no longer registered with the ~~board~~ *department* as an intern, and is currently in the examination process.

(e) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

(f) "Experience," as used in this chapter, means experience in interpersonal relationships, psychotherapy, marriage and family therapy, and professional enrichment activities that satisfies the requirement for licensure as a marriage and family therapist pursuant to Section 4980.40.

(g) "Supervisor," as used in this chapter, means an individual who meets all of the following requirements:

(1) Has been licensed by a state regulatory agency for at least two years as a marriage and family therapist, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) Has not provided therapeutic services to the trainee or intern.

(3) Has a current and valid license that is not under suspension or probation.

(4) Complies with supervision requirements established by this chapter and by ~~board~~ *department* regulations.

SEC. 356. Section 4980.07 of the Business and Professions Code is amended to read:

4980.07. The ~~board~~ *department* shall administer the provisions of this chapter.

SEC. 357. Section 4980.30 of the Business and Professions Code is amended to read:

4980.30. Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage and family therapy services shall apply to the ~~board~~ *department* for a license and shall pay the license fee required by this chapter.

SEC. 358. Section 4980.34 of the Business and Professions Code is amended to read:

4980.34. It is the intent of the Legislature that the ~~board~~ *department* employ its resources for each and all of the following functions:

(a) The licensing of marriage and family therapists, clinical social workers, and educational psychologists.

(b) The development and administration of licensing examinations and examination procedures, as specified, consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(d) Consumer education.

SEC. 359. Section 4980.35 of the Business and Professions Code is amended to read:

4980.35. (a) The Legislature acknowledges that the basic obligation to provide a complete and accurate application for a marriage and family therapist license lies with the applicant. At the same time, the Legislature recognizes that an effort should be made by the ~~board~~ *department* to ensure that persons who enter degree programs and supervisorial training settings that meet the requirements of this chapter are enabled to discern the requirements for licensing and to take the examination when they have completed their educational and experience requirements.

(b) In order that the ~~board~~ *department*, the educational institutions, and the supervisors who monitor the education and experience of applicants for licensure may develop greater cooperation, the ~~board~~ *department* shall do all of the following:

(1) Apply a portion of its limited resources specifically to the task of communicating information about its activities, the requirements and qualifications for licensure, and the practice of marriage and family therapy to the relevant educational institutions, supervisors, professional associations, applicants, trainees, interns, and the consuming public.

(2) Develop policies and procedures to assist educational institutions in meeting the curricula requirements of Section 4980.40 and any regulations adopted pursuant to that section, so that those educational institutions may better provide assurance to their students that the curriculum offered to fulfill the educational requirements for licensure will meet those requirements at the time of the student's application for licensure.

(3) Notify applicants in the application procedure when applications are incomplete, inaccurate, or deficient, and inform applicants of any remediation, reconsideration, or appeal procedures that may be applicable.

(4) Undertake, or cause to be undertaken, further comprehensive review, in consultation with educational institutions, professional associations, supervisors, interns, and trainees, of the supervision of interns and trainees, which shall include, but not be limited to, the following, and shall propose regulations regarding the supervision of interns and trainees which may include, but not be limited to, the following:

(A) Supervisor qualifications.

(B) Continuing education requirements of supervisors.

(C) Registration or licensing of supervisors, or both.

(D) Responsibilities of supervisors in general.

(E) The ~~board's~~ *department's* authority in cases of noncompliance or negligence by supervisors.

(F) The intern's and trainee's need for guidance in selecting well-balanced and high quality professional training opportunities within his or her community.

(G) The role of the supervisor in advising and encouraging his or her intern or trainee regarding the necessity or value and appropriateness of the intern or trainee engaging in personal psychotherapy, so as to enable the intern or trainee to become a more competent marriage and family therapist.

SEC. 360. Section 4980.38 of the Business and Professions Code is amended to read:

4980.38. (a) Each educational institution preparing applicants to qualify for licensure shall notify each of its students by means of its public documents or otherwise in writing that its degree program is designed to meet the requirements of Sections 4980.37 and 4980.40, and shall certify to the ~~board~~ *department* that it has so notified its students.

(b) In addition to all of the other requirements for licensure, each applicant shall submit to the ~~board~~ *department* a certification by the chief academic officer, or his or her designee, of the applicant's educational institution that the applicant has fulfilled the requirements enumerated in Sections 4980.37 and 4980.40, and subdivisions (d) and (e) of Section 4980.41.

SEC. 361. Section 4980.39 of the Business and Professions Code is amended to read:

4980.39. (a) Any applicant for licensure as a marriage and family therapist who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the ~~board~~ *department*, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the ~~board~~ *department* a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The ~~board~~ *department* shall not issue a license to the applicant until the applicant has met the requirements of this section.

SEC. 362. Section 4980.395 of the Business and Professions Code is amended to read:

4980.395. (a) A licensee who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period after the operative date of this section and shall submit to

the ~~board~~ *department* evidence, acceptable to the ~~board~~ *department*, of the person's satisfactory completion of the course.

(b) The course shall include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) A person seeking to meet the requirements of subdivision (a) of this section may submit to the ~~board~~ *department* a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The ~~board~~ *department*, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The ~~board~~ *department* may not renew an applicant's license until the applicant has met the requirements of this section.

(e) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4980.54.

(f) This section shall become operative on January 1, 2005.

SEC. 363. Section 4980.40 of the Business and Professions Code is amended to read:

4980.40. To qualify for a license, an applicant shall have all the following qualifications:

(a) Applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education. The ~~board~~ *department* has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this subdivision, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children.

The ~~board~~ *department* shall, by regulation, set forth the subjects of instruction required in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(c) As an alternative to meeting the qualifications specified in subdivision (a), the ~~board~~ *department* shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.

(e) All applicants shall be at least 18 years of age.

(f) All applicants shall have at least two years of experience that meet the requirements of Section 4980.43.

(g) The applicant shall pass a ~~board~~ *department* administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The ~~board~~ *department* shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(i) An applicant for licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the ~~board~~ *department* that he or she possesses a qualifying degree that is equivalent to a degree earned from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau of Private Postsecondary and Vocational Education. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and shall provide any other documentation the ~~board~~ *department* deems necessary.

SEC. 364. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.

(4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:

(A) Not more than 750 hours of counseling and direct supervisor contact.

(B) Not more than 250 hours of professional enrichment activities, excluding personal psychotherapy as described in paragraph (2) of subdivision (*l*).

(C) Not more than 100 hours of personal psychotherapy as described in paragraph (2) of subdivision (*l*). The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) No hours of experience gained more than six years prior to the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

(7) Not more than a total of 1,000 hours of experience for direct supervisor contact and professional enrichment activities.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) Not more than 250 hours of postdegree experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.

(10) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

(11) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(12) Not more than 125 hours of experience providing personal psychotherapy services via telemedicine in accordance with Section 2290.5.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the ~~board~~ *department*

for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.

(2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons.

(4) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied the requirements of subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of

their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their employers.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars ($500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The ~~board~~ *department* may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

(*l*) For purposes of this chapter, "professional enrichment activities" includes the following:

(1) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor.

(2) Participation by the applicant in personal psychotherapy which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.

SEC. 365. Section 4980.44 of the Business and Professions Code is amended to read:

4980.44. An unlicensed marriage and family therapist intern employed under this chapter shall comply with the following requirements:

(a) Possess, at a minimum, a master's degree as specified in Section 4980.40.

(b) Register with the ~~board~~ *department* prior to performing any duties, except as otherwise provided in subdivision (e) of Section 4980.43.

(c) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

SEC. 366. Section 4980.50 of the Business and Professions Code is amended to read:

4980.50. (a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the ~~board~~ *department*. The examinations shall be as set forth in subdivision (g) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the ~~board~~ *department* may determine. The ~~board~~ *department* shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The ~~board~~ *department* shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The ~~board~~ *department* shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the ~~board~~ *department* postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the ~~board~~ *department* of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under ~~board~~ *departmental* investigation for acts or conduct that, if proven to be true, would constitute grounds for the ~~board~~ *department* to deny licensure, the ~~board~~ *department* shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the ~~board~~ *department* may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the ~~board~~ *department* from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the ~~board~~ *department* may destroy all examination materials two years following the date of an examination.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the ~~board~~ *department* may deem appropriate.

SEC. 367. Section 4980.54 of the Business and Professions Code is amended to read:

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (g) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all

psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) Except as provided in subdivision (e), the ~~board~~ *department* shall not renew any license pursuant to this chapter unless the applicant certifies to the ~~board~~ *department*, on a form prescribed by the ~~board~~ *department*, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(d) The ~~board~~ *department* shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The ~~board~~ *department* may establish exceptions from the continuing education requirements of this section for good cause, as defined by the ~~board~~ *department*.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.40. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional marriage and family therapist association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association, approved by the ~~board~~ *department*.

(g) The ~~board~~ *department* shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The ~~board~~ *department* may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(j) The ~~board~~ *department* shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 368. Section 4980.57 of the Business and Professions Code is amended to read:

4980.57. (a) The ~~board~~ *department* shall require a licensee who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the ~~board~~ *department* and at its discretion, may be accepted in satisfaction of this requirement.

(b) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required under subdivision (c) of Section 4980.54.

SEC. 369. Section 4980.60 of the Business and Professions Code is amended to read:

4980.60. (a) The ~~board~~ *department* may adopt those rules and regulations as may be necessary to enable it to carry into effect the provisions of this chapter. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The ~~board~~ *department* may, by rules or regulations, adopt, amend, or repeal rules of advertising and professional conduct appropriate to the establishment and maintenance of a high standard of integrity in the profession, provided that the rules or regulations are not inconsistent with Section 4982. Every person who holds a license to practice marriage and family therapy shall be governed by the rules of professional conduct.

SEC. 370. Section 4980.70 of the Business and Professions Code is amended to read:

4980.70. Except as provided by Section 159.5, the ~~board~~ *department* may employ whatever additional personnel is necessary to carry out the provisions of this chapter.

SEC. 371. Section 4980.80 of the Business and Professions Code is amended to read:

4980.80. The ~~board~~ *department* may issue a license to a person who, at the time of application, has held for at least two years a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if the education and supervised experience requirements are substantially the equivalent of this chapter and the person successfully completes the ~~board~~ *department* administered licensing examinations as specified by subdivision (g) of Section 4980.40 and pays the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:

(a) (1) An applicant who completed a two semester or three quarter unit course in law and professional ethics for marriage, and family therapists that included areas of study as specified in Section 4980.41 as part of his or her qualifying degree shall

complete an 18-hour course in California law and professional ethics that includes, but is not limited to, the following subjects: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, requirements of the Health Insurance Portability and Accountability Act of 1996, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to patients.

(2) An applicant who has not completed a two semester or three quarter unit course in law and professional ethics for marriage and family therapists that included areas of study as specified in Section 4980.41 as part of his or her qualifying degree, shall complete a two semester or three quarter unit course in California law and professional ethics that includes, at minimum, the areas of study specified in Section 4980.41.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25 and any regulations promulgated thereunder.

(d) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(e) (1) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(2) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(f) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(g) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This

course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(h) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the ~~board~~ *department* may accept training or coursework acquired out of state.

SEC. 372. Section 4980.90 of the Business and Professions Code is amended to read:

4980.90. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the ~~board~~ *department*. The board *department* shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure by that state as a marriage and family therapist.

(b) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(B) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(6) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the ~~board~~ *department* may accept training or coursework acquired out of state.

(c) For purposes of this section, the ~~board~~ *department* may, in its discretion, accept education as substantially equivalent if the applicant meets both of the following requirements:

(1) The applicant has been granted a degree in a single integrated program primarily designed to train marriage and family therapists.

(2) The applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the content required by Section 4980.37 or the overall number of units required by subdivision (a) of Section 4980.40, the ~~board~~ *department* may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

(A) The applicant's degree contains the required number of practicum units and coursework required in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment as specified in Section 4980.40.

(B) The applicant remediates his or her specific deficiency by completing the course content required by Section 4980.37 or the units required by subdivision (a) of Section 4980.40.

(C) The applicant's degree otherwise complies with this section.

SEC. 373. Section 4981 of the Business and Professions Code is amended to read:

4981. This article applies to licenses to engage in the business of marriage and family therapy, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the ~~board~~ *department* shall have all powers provided in this article not inconsistent with this chapter.

SEC. 374. Section 4982 of the Business and Professions Code is amended to read:

4982. The ~~board~~ *department* may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The ~~board~~ *department* may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The ~~board~~ *department* may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the ~~board~~ *department*, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022,

or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The ~~board~~ *department* shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the ~~board~~ *department*.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially

related to the qualifications, functions, or duties of a marriage and family therapist.

(*l*) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board *department*.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one’s competence, as established by one’s education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern under one's supervision or control to perform, or permitting the trainee or registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(z) Failure to comply with Section 2290.5.

SEC. 375. Section 4982.05 of the Business and Professions Code is amended to read:

4982.05. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the ~~board~~ *department* discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the ~~board~~ *department* discovers the act or omission alleged as the grounds for disciplinary action, or within 10 years after the act or omission alleged as the grounds for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(g) For purposes of this section, "discovers" means the later of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

(1) The date the ~~board~~ *department* received a complaint or report describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the ~~board~~ *department* receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.

SEC. 376. Section 4984 of the Business and Professions Code is amended to read:

4984. (a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the ~~board~~ *department*.

(b) To renew an unexpired license, the licensee, on or before the expiration date of the license, shall do all of the following:

(1) Apply for a renewal on a form prescribed by the ~~board~~ *department*.

(2) Pay a two-year renewal fee prescribed by the ~~board~~ *department*.

(3) Certify compliance with the continuing education requirements set forth in Section 4980.54.

(4) Notify the ~~board~~ *department* whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony,

or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

SEC. 377. Section 4984.01 of the Business and Professions Code is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the ~~board~~ *department*.

(2) Pay a renewal fee prescribed by the ~~board~~ *department*.

(3) Notify the ~~board~~ *department* whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

SEC. 378. Section 4984.5 of the Business and Professions Code is amended to read:

4984.5. The ~~board~~ *department* shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

SEC. 379. Section 4984.6 of the Business and Professions Code is amended to read:

4984.6. (a) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.

(b) The ~~board~~ *department* shall keep any records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category~~, and shall so notify the department no later than May 31 of each year~~.

(c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

SEC. 380. Section 4984.7 of the Business and Professions Code is amended to read:

4984.7. (a) The ~~board~~ *department* shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an intern registration shall be seventy-five dollars ($75).

(2) The renewal fee for an intern registration shall be seventy-five dollars ($75).

(3) The fee for the application for examination eligibility shall be one hundred dollars ($100).

(4) The fee for the standard written examination shall be one hundred dollars ($100). The fee for the clinical vignette examination shall be one hundred dollars ($100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(B) The amount of the examination fees shall be based on the actual cost to the ~~board~~ *department* of developing, purchasing, and grading each examination and the actual cost to the ~~board~~ *department* of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the ~~board~~ *department*.

(5) The fee for rescoring an examination shall be twenty dollars ($20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred eighty dollars ($180).

(7) The fee for license renewal shall be a maximum of one hundred eighty dollars ($180).

(8) The fee for inactive license renewal shall be a maximum of ninety dollars ($90).

(9) The renewal delinquency fee shall be a maximum of ninety dollars ($90). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars ($20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars ($25).

(b) With regard to license, examination, and other fees, the ~~board~~ *department* shall establish fee amounts at or below the maximum amounts specified in this chapter.

SEC. 381. Section 4984.75 of the Business and Professions Code is amended to read:

4984.75. In addition to the fees charged pursuant to Section 4984.7 for the biennial renewal of a license pursuant to Section 4984, the ~~board~~ *department* shall collect an additional fee of ten dollars ($10) at the time of renewal. The ~~board~~ *department* shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 382. Section 4984.8 of the Business and Professions Code is amended to read:

4984.8. (a) A licensee may apply to the ~~board~~ *department* to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of marriage and family therapy in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee in the amount of one-half of the standard renewal fee and shall be exempt from continuing education requirements.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status.

(1) A licensee requesting to restore his or her license to active status between renewal cycles shall pay the remaining one-half of his or her renewal fee.

(2) A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete 18 hours of continuing education as specified in Section 4980.54.

(3) A licensee requesting to restore his or her license to active status, whose license will expire more than one year form the date of the request, shall complete 36 hours of continuing education as specified in Section 4980.54.

SEC. 383. Section 4984.9 of the Business and Professions Code is amended to read:

4984.9. A licensee or registrant shall give written notice to the ~~board~~ *department* of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

SEC. 384. Section 4987.5 of the Business and Professions Code is amended to read:

4987.5. A marriage and family therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are marriage and family therapists, physicians and surgeons, psychologists, licensed clinical social workers, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and any other statute or regulation pertaining to that corporation and the conduct of its affairs. With respect to a marriage and family therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the ~~Board of Behavioral Sciences~~ *Department of Consumer Affairs*.

SEC. 385. Section 4989.12 of the Business and Professions Code is amended to read:

4989.12. The ~~Board of Behavioral Sciences~~ *Department of Consumer Affairs* shall administer and enforce the provisions of this chapter. For the purposes of this chapter it shall be designated as the ~~board~~ *department*.

SEC. 386. Section 4989.16 of the Business and Professions Code is amended to read:

4989.16. (a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the ~~board~~ *department*.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Practice Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

SEC. 387. Section 4989.18 of the Business and Professions Code is amended to read:

4989.18. The ~~board~~ *department* may, by rules or regulations, adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession, provided those rules or regulations are not inconsistent with Section 4989.54. Every person licensed under this chapter shall be governed by those rules of professional conduct.

SEC. 388. Section 4989.20 of the Business and Professions Code is amended to read:

4989.20. (a) The ~~board~~ *department* may issue a license as an educational psychologist if the applicant satisfies, with proof satisfactory to the ~~board~~ *department*, the following requirements:

(1) Possession of, at minimum, a master's degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent by the ~~board~~ *department*. This degree shall be obtained from an educational institution approved by the ~~board~~ *department* according to the regulations adopted under this chapter.

(2) Attainment of 18 years of age.

(3) No commission of an act or crime constituting grounds for denial of licensure under Section 480.

(4) Successful completion of 60 semester hours of postgraduate work in pupil personnel services.

(5) Two years of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools. The applicant shall not be credited with experience

obtained more than six years prior to filing the application for licensure.

(6) One of the following:

(A) One year of supervised professional experience in an accredited school psychology program.

(B) In addition to the requirements of paragraph (5), one year of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools obtained under the direction of a licensed educational psychologist or a licensed psychologist.

(7) Passage of an examination specified by the ~~board~~ *department*.

SEC. 389. Section 4989.22 of the Business and Professions Code is amended to read:

4989.22. (a) Only persons who satisfy the requirements of Section 4989.20 are eligible to take the licensure examination.

(b) An applicant who fails the written examination may, within one year from the notification date of failure, retake the examination as regularly scheduled without further application. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required.

(c) Notwithstanding any other provision of law, the ~~board~~ *department* may destroy all examination materials two years after the date of an examination.

SEC. 390. Section 4989.24 of the Business and Professions Code is amended to read:

4989.24. The ~~board~~ *department* shall not issue a license to a person who has been convicted of a crime in this or any other state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

SEC. 391. Section 4989.26 of the Business and Professions Code is amended to read:

4989.26. The ~~board~~ *department* may refuse to issue a license to an applicant if it appears he or she may be unable to practice safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to a denial of a license pursuant to this section.

SEC. 392. Section 4989.28 of the Business and Professions Code is amended to read:

4989.28. The ~~board~~ *department* may deny an application for licensure if the applicant is or has been guilty of unprofessional conduct as described in Section 4989.54.

SEC. 393. Section 4989.30 of the Business and Professions Code is amended to read:

4989.30. A license issued under this chapter shall expire no later than 24 months after its date of issue. The expiration date of the original license shall be set by the ~~board~~ *department*.

SEC. 394. Section 4989.32 of the Business and Professions Code is amended to read:

4989.32. To renew an unexpired license, the licensee shall, on or before the expiration date of the license, take all of the following actions:

(a) Apply for renewal on a form prescribed by the ~~board~~ *department*.

(b) Pay a renewal fee prescribed by the ~~board~~ *department*.

(c) Inform the ~~board~~ *department* of whether he or she has been convicted, as defined in Section 490, of any misdemeanor or felony and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state after the prior issuance or renewal of his or her license.

(d) Complete the continuing education requirements described in Section 4989.34.

SEC. 395. Section 4989.34 of the Business and Professions Code is amended to read:

4989.34. (a) To renew his or her license, a licensee shall certify to the ~~board~~ *department*, on a form prescribed by the ~~board~~ *department*, completion in the preceding two years of not less than 36 hours of approved continuing education in, or relevant to, educational psychology.

(b) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider approved by the ~~board~~ *department*.

(2) The ~~board~~ *department* shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the ~~board~~ *department*. The ~~board~~ *department* may revoke or deny the right of a provider to offer

continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(c) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(d) The ~~board~~ *department* may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(e) The ~~board~~ *department* may establish exceptions from the continuing education requirements of this section for good cause, as determined by the ~~board~~ *department*.

(f) The ~~board~~ *department* shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 396. Section 4989.40 of the Business and Professions Code is amended to read:

4989.40. A revoked license is subject to expiration as provided in this article and shall not be renewed. The applicant may apply to the ~~board~~ *department* for reinstatement of his or her license and shall pay a reinstatement fee in an amount equal to the renewal fee in effect at that time and any delinquency fees that may have accrued and comply with other requirements of the ~~board~~ *department* for reinstatement.

SEC. 397. Section 4989.44 of the Business and Professions Code is amended to read:

4989.44. (a) A licensee may apply to the ~~board~~ *department* to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of educational psychology in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee of one-half of the amount of the standard renewal fee.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status. A licensee requesting that his or her license be placed on active status between renewal cycles shall pay the remaining one-half of his or her renewal fee. A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete 18 hours of continuing education as specified in Section 4989.34. A licensee requesting to restore his or her license to active status, whose license will expire more than one year from the date of the request, shall complete 36 hours of continuing education as specified in Section 4989.34.

SEC. 398. Section 4989.46 of the Business and Professions Code is amended to read:

4989.46. A licensee shall give written notice to the ~~board~~ *department* of a name change within 30 days after each change, providing both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

SEC. 399. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The ~~board~~ *department* may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The ~~board~~ *department* may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially

related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The ~~board~~ *department* may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the ~~board~~ *department*, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

(e) Advertising in a manner that is false, misleading, or deceptive.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the ~~board~~ *department*.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory

or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the ~~board~~ *department* of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(*l*) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond

the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

SEC. 400. Section 4989.56 of the Business and Professions Code is amended to read:

4989.56. The ~~board~~ *department* shall revoke the license of a licensee, other than one who is also licensed as a physician and surgeon, who uses or offers to use drugs in the course of his or her practice as an educational psychologist.

SEC. 401. Section 4989.58 of the Business and Professions Code is amended to read:

4989.58. The ~~board~~ *department* shall revoke the license of a licensee upon a decision that contains a finding of fact that the licensee engaged in an act of sexual contact, as defined in Section 729, when that act is with a client, or with a former client and the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the ~~board~~ *department*.

SEC. 402. Section 4989.62 of the Business and Professions Code is amended to read:

4989.62. All proceedings by the ~~board~~ *department* to suspend, revoke, or to take other disciplinary action against a licensee shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 403. Section 4989.64 of the Business and Professions Code is amended to read:

4989.64. In addition to other proceedings provided for in this chapter, whenever a person has engaged, or is about to engage, in an act or practice that constitutes, or will constitute, an offense against this chapter, the superior court in and for the county where the act or practice takes place, or is about to take place, may issue an injunction, or other appropriate order, restraining that conduct on application of the ~~board~~ *department*, the Attorney General, or the district attorney of the county. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 404. Section 4989.68 of the Business and Professions Code is amended to read:

4989.68. (a) The ~~board~~ *department* shall assess the following fees relating to the licensure of educational psychologists:

(1) The application fee for examination eligibility shall be one hundred dollars ($100).

(2) The fee for issuance of the initial license shall be a maximum amount of one hundred fifty dollars ($150).

(3) The fee for license renewal shall be a maximum amount of one hundred fifty dollars ($150).

(4) The delinquency fee shall be seventy-five dollars ($75). A person who permits his or her license to become delinquent may have it restored only upon payment of all the fees that he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(5) The written examination fee shall be one hundred dollars ($100). An applicant who fails to appear for an examination, once having been scheduled, shall forfeit any examination fees he or she paid.

(6) The fee for rescoring a written examination shall be twenty dollars ($20).

(7) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars ($20).

(8) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars ($25).

(b) With regard to all license, examination, and other fees, the ~~board~~ *department* shall establish fee amounts at or below the maximum amounts specified in this chapter.

SEC. 405. Section 4989.70 of the Business and Professions Code is amended to read:

4989.70. The ~~board~~ *department* shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

SEC. 406. Section 4990 of the Business and Professions Code is repealed.

~~4990. (a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of 11 members composed as follows:~~

~~(1) Two state licensed clinical social workers.~~

~~(2) One state licensed educational psychologist.~~

~~(3) Two state licensed marriage and family therapists.~~

~~(4) Six public members.~~

~~(b) Each member, except the six public members, shall have at least two years of experience in his or her profession.~~

~~(c) Each member shall reside in the State of California.~~

~~(d) The Governor shall appoint four of the public members and the five licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.~~

~~(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which he or she was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of his or her successor or until 60 days from the expiration date of the term for which he or she was appointed, whichever first occurs.~~

~~(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.~~

~~(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.~~

~~(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.~~

~~(i) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 407. Section 4990.1 is added to the Business and Professions Code, to read:

4990.1. There is in the Department of Consumer Affairs an administration subdivision that shall be established as necessary to accomplish the duties imposed by this chapter concerning social workers.

SEC. 408. Section 4990.10 of the Business and Professions Code is repealed.

~~4990.10. The board may conduct research in, and make studies of problems involved in, the maintaining of professional standards among those engaged in the professions it licenses and may publish its recommendations thereon.~~

SEC. 409. Section 4990.12 of the Business and Professions Code is amended to read:

4990.12. The duty of administering and enforcing this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), and Chapter 14 (commencing with Section 4991) is vested in the ~~board and the executive officer subject to, and under the direction of, the board~~ *department*. In the performance of this duty, the ~~board and the executive officer have~~ *department has* all the powers and are subject to all the responsibilities vested in, and imposed upon, the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 410. Section 4990.14 of the Business and Professions Code is repealed.

~~4990.14. The board shall have and use a seal bearing the words "The Board of Behavioral Sciences," and shall otherwise conform to Section 107.5.~~

SEC. 411. Section 4990.18 of the Business and Professions Code is amended to read:

4990.18. It is the intent of the Legislature that the ~~board~~ *department* employ its resources for each and all of the following functions:

(a) The licensure of marriage and family therapists, clinical social workers, and educational psychologists.

(b) The development and administration of licensure examinations and examination procedures consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(d) Consumer education.

SEC. 412. Section 4990.20 of the Business and Professions Code is amended to read:

4990.20. (a) The ~~board~~ *department* may adopt rules and regulations as necessary to administer and enforce the provisions of this chapter and the other chapters it administers and enforces. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The ~~board~~ *department* may formulate and enforce rules and regulations requiring the following:

(1) That the articles of incorporation or bylaws of a marriage and family therapist or licensed clinical social worker corporation include a provision whereby the capital stock of that corporation owned by a disqualified person, as defined in the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or a deceased person shall be sold to the corporation or to the remaining shareholders of that corporation within the time that the rules and regulations may provide.

(2) That a marriage and family therapist corporation or a licensed clinical social worker corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 413. Section 4990.22 of the Business and Professions Code is amended to read:

4990.22. (a) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.

(b) The ~~board~~ *department* shall keep records that reasonably ensure that funds expended in the administration of each licensure or registration category shall bear a reasonable relation to the revenue derived from each category and report to the department no later than May 31 of each year on those expenditures.

(c) Surpluses, if any, may be used by the ~~board~~ *department* in a manner that bears a reasonable relation to the revenue derived from each licensure or registration category and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

SEC. 414. Section 4990.24 of the Business and Professions Code is amended to read:

4990.24. The powers and duties of the ~~board,~~ *department* as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 415. Section 4990.26 of the Business and Professions Code is amended to read:

4990.26. Wherever "Board of Behavioral Science Examiners," "Board of Social Work Examiners of the State of California," or "Social Worker and Marriage Counselor Qualifications Board of the State of California" is used in any law or regulations of this state, it shall mean the ~~Board of Behavioral Sciences~~ *Department of Consumer Affairs*.

SEC. 416. Section 4990.28 of the Business and Professions Code is amended to read:

4990.28. The ~~board~~ *department* may refuse to issue a registration or license under the chapters it administers and enforces whenever it appears that the applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to denial of a license or registration pursuant to this section.

SEC. 417. Section 4990.34 of the Business and Professions Code is amended to read:

4990.34. (a) The ~~board~~ *department* may place a license or registration issued under the chapters it administers and enforces on probation under the following circumstances:

(1) In lieu of, or in addition to, any order of the ~~board~~ *department* suspending or revoking the license or registration.

(2) Upon the issuance of a license or registration to an individual who has been guilty of unprofessional conduct but who otherwise completed all education, training, and experience required for licensure or registration.

(3) As a condition upon the reissuance or reinstatement of a license or registration that has been suspended or revoked by the ~~board~~ *department*.

(b) The ~~board~~ *department* may adopt regulations establishing a monitoring program to ensure compliance with any terms or conditions of probation imposed by the ~~board~~ *department* pursuant to subdivision (a). The cost of probation or monitoring may be ordered to be paid by the licensee or registrant.

SEC. 418. Section 4990.36 of the Business and Professions Code is amended to read:

4990.36. The ~~board,~~ *department* in its discretion, may require a licensee or registrant whose license or registration has been placed on probation or whose license or registration has been suspended, to obtain additional professional training and to pass an examination upon completion of that training and to pay any necessary examination fee. The examination may be written, oral, or a practical or clinical examination.

SEC. 419. Section 4990.38 of the Business and Professions Code is amended to read:

4990.38. The ~~board~~ *department* may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

SEC. 420. Section 4990.40 of the Business and Professions Code is amended to read:

4990.40. The ~~board~~ *department* shall revoke a license or registration issued under the chapters it administers and enforces upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined in Section 729, when that act is with a patient or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the ~~board~~ *department*.

SEC. 421. Section 4994 of the Business and Professions Code is amended to read:

4994. All moneys in the Behavioral Sciences Fund shall be expended by the ~~board~~ *department* for the purposes of the programs under its jurisdiction.

SEC. 422. Section 4996.1 of the Business and Professions Code is amended to read:

4996.1. The ~~board~~ *department* shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and successfully passes a ~~board~~ *department* administered written or oral examination or both examinations. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

SEC. 423. Section 4996.2 of the Business and Professions Code is amended to read:

4996.2. Each applicant shall furnish evidence satisfactory to the ~~board~~ *department* that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.20, 4996.21, or 4996.23.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The ~~board~~ *department* shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is

required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the ~~board~~ *department* shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 424. Section 4996.3 of the Business and Professions Code is amended to read:

4996.3. (a) The ~~board~~ *department* shall assess the following fees relating to the licensure of clinical social workers:

(1) The application fee for registration as an associate clinical social worker shall be seventy-five dollars ($75).

(2) The fee for renewal of an associate clinical social worker registration shall be seventy-five dollars ($75).

(3) The fee for application for examination eligibility shall be one hundred dollars ($100).

(4) The fee for the standard written examination shall be a maximum of one hundred fifty dollars ($150). The fee for the clinical vignette examination shall be one hundred dollars ($100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fees.

(B) The amount of the examination fees shall be based on the actual cost to the ~~board~~ *department* of developing, purchasing, and grading each examination and the actual cost to the ~~board~~ *department* of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the ~~board~~ *department*.

(5) The fee for rescoring an examination shall be twenty dollars ($20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred fifty-five dollars ($155).

(7) The fee for license renewal shall be a maximum of one hundred fifty-five dollars ($155).

(8) The fee for inactive license renewal shall be a maximum of seventy-seven dollars and fifty cents ($77.50).

(9) The renewal delinquency fee shall be seventy-five dollars ($75). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars ($20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars ($25).

(b) With regard to license, examination, and other fees, the ~~board~~ *department* shall establish fee amounts at or below the maximum amounts specified in this chapter.

SEC. 425. Section 4996.5 of the Business and Professions Code is amended to read:

4996.5. The ~~board~~ *department* shall issue a license to each applicant meeting the requirements of this article, which license, so long as the annual renewal fees have been paid, licenses the holder to engage in the practice of clinical social work as defined

in Section 4996.9, entitles the holder to use the title of licensed clinical social worker, and authorizes the holder to hold himself or herself out as qualified to perform any of the functions delineated by this chapter. The form and content of the license shall be determined by the director in accordance with Section 164.

SEC. 426. Section 4996.6 of the Business and Professions Code is amended to read:

4996.6. (a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the ~~board~~ *department*.

(b) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, complete the following actions:

(1) Apply for a renewal on a form prescribed by the ~~board~~ *department*.

(2) Pay a two-year renewal fee prescribed by the ~~board~~ *department*.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the ~~board~~ *department* whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(c) To renew an expired license within three years of its expiration, the licensee shall, as a condition precedent to renewal, complete all of the actions described in subdivision (b) and pay a delinquency fee.

(d) A license that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the licensee may apply for and obtain a new license if he or she satisfies all of the following requirements:

(1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.

(2) He or she submits an application for examination eligibility.

(3) He or she takes and passes the current licensing examinations.

(4) He or she submits the fees for examination eligibility and for initial license issuance.

SEC. 427. Section 4996.11 of the Business and Professions Code is amended to read:

4996.11. The ~~board~~ *department* may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article 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 ~~board~~ *department* shall have all the powers granted in that chapter.

SEC. 428. Section 4996.17 of the Business and Professions Code is amended to read:

4996.17. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(b) The ~~board~~ *department* may issue a license to any person who, at the time of application, has held a valid active clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the ~~board~~ *department* administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the ~~board~~ *department* determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The ~~board~~ *department* may issue a license to any person who, at the time of application, has held a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the ~~board~~ *department* administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the ~~board~~ *department* determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

SEC. 429. Section 4996.18 of the Business and Professions Code is amended to read:

4996.18. (a) A person who wishes to be credited with experience toward licensure requirements shall register with the ~~board~~ *department* as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the ~~board~~ *department*.

(b) An applicant for registration shall satisfy the following requirements:

(1) Possess a master's degree from an accredited school or department of social work.

(2) Have committed no crimes or acts constituting grounds for denial of licensure under Section 480.

(c) An applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section

480. That applicant shall not, however, be eligible for examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

(d) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(e) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.20, 4996.21, or 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

(f) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the ~~board~~ *department* that he or she possesses a master's of social work degree that is equivalent to a master's degree issued from a school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work Education. These applicants shall provide the ~~board~~ *department* with a comprehensive evaluation of the degree and shall provide any other documentation the board deems necessary. The ~~board~~ *department* has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements regardless of evaluation or accreditation.

(g) A registrant shall not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee.

(h) A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

SEC. 430. Section 4996.20 of the Business and Professions Code is amended to read:

4996.20. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the ~~board~~ *department*.

For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. "Individual supervision" means one supervisor meets with one supervisee at a time. "Group supervision" means a supervisor meets with a group of no more than eight supervisees at a time.

(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation, or a licensed health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:

(1) Pay his or her employer for supervision, and shall receive fair remuneration from his or her employer.

(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(3) Perform services at any place except where the registrant's employer regularly conducts business.

(4) Have any proprietary interest in the employer's business.

(d) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written contract with the employer to take supervisory responsibility for the registrant's social work services.

(e) This section shall apply only to persons who apply for registration on or before December 31, 1998.

SEC. 431. Section 4996.21 of the Business and Professions Code is amended to read:

4996.21. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) On or after January 1, 1999, an associate shall have at least 3,200 hours of post-master's degree experience in providing clinical social work services as permitted by Section 4996.9. At least 1,700 of these hours shall be gained under the supervision of a licensed clinical social worker. The remaining hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the ~~board~~ *department* as defined in a regulation adopted by the ~~board~~ *department*. Experience shall consist of the following:

(1) A minimum of 2,000 hours in psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(b) Supervision means responsibility for and control of the quality of clinical social work services being provided.

(c) Consultation or peer discussion shall not be considered to be supervision.

(d) Supervision shall include at least one hour of direct supervisor contact for a minimum of 104 weeks and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group setting of not more than eight persons.

(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the ~~board~~ *department* the initial original supervisory plan upon application for licensure.

(f) (1) Experience shall only be gained in a setting that meets both of the following:

(A) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(2) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(3) Employment in a private practice as defined in paragraph (4) shall not commence until the applicant has been registered as an associate clinical social worker.

(4) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(5) If volunteering, the associate shall provide the ~~board~~ *department* with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(6) If employed, the associate shall provide the ~~board~~ *department* with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(g) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to associates.

(h) An associate shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(i) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

SEC. 432. Section 4996.22 of the Business and Professions Code is amended to read:

4996.22. (a) (1) Except as provided in subdivision (c), the ~~board~~ *department* shall not renew any license pursuant to this chapter unless the applicant certifies to the ~~board~~ *department*, on a form prescribed by the ~~board~~ *department*, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the ~~board~~ *department*.

(2) The ~~board~~ *department* shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the ~~board~~ *department* that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the ~~board~~ *department* and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph

shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The ~~board~~ *department* shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The ~~board~~ *department* may establish exceptions from the continuing education requirement of this section for good cause as defined by the ~~board~~ *department*.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4991.2, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional social work association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, and a mental health professional association, approved by the board.

(e) The ~~board~~ *department* shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to the procedures established by the ~~board~~ *department*. The ~~board~~ *department* may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the ~~Department of Consumer Affairs~~ *department* pursuant to Section 166.

(i) The ~~board~~ *department* may adopt regulations as necessary to implement this section.

(j) The ~~board~~ *department* shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Science Examiners Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

SEC. 433. Section 4996.23 of the Business and Professions Code is amended to read:

4996.23. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) All persons registered with the ~~board~~ *department* on and after January 1, 2002, shall have at least 3,200 hours of post-master's degree supervised experience providing clinical social work services as permitted by Section 4996.9. At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the ~~board~~ *department* as defined by a regulation adopted by the ~~board~~ *department*. This experience shall consist of the following:

(1) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Of the 2,000 clinical hours required in paragraph (1), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

(4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(5) Experience shall not be credited for more than 40 hours in any week.

(b) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. In addition, an associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision.

(d) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the ~~board~~ *department* the initial original supervisory plan upon application for licensure.

(e) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(i) If volunteering, the associate shall provide the ~~board~~ *department* with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the ~~board~~ *department* with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(*l*) Associates shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.

SEC. 434. Section 4996.25 of the Business and Professions Code is amended to read:

4996.25. (a) Any applicant for licensure as a licensed clinical social worker who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the ~~board~~ *department*, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the ~~board~~ *department* a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The ~~board~~ *department* shall not issue a license to the applicant until the applicant has met the requirements of this section.

SEC. 435. Section 4996.26 of the Business and Professions Code is amended to read:

4996.26. (a) A licensee who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period after the operative date of this section, and shall submit to the ~~board~~ *department* evidence acceptable to the ~~board~~ *department* of the person's satisfactory completion of the course.

(b) The course shall include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) Any person seeking to meet the requirements of subdivision (a) ~~of this section~~ may submit to the ~~board~~ *department* a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The ~~board~~ *department*, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The ~~board~~ *department* may not renew an applicant's license until the applicant has met the requirements of this section.

(e) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4996.22.

(f) This section shall become operative on January 1, 2005.

SEC. 436. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the ~~board~~ *department*.

(2) Pay a renewal fee prescribed by the ~~board~~ *department*.

(3) Notify the ~~board~~ *department* whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a new associate clinical social worker registration if the applicant meets all requirements for registration in effect at the time of his or her application for a new associate clinical social worker registration.

SEC. 437. Section 4996.65 of the Business and Professions Code is amended to read:

4996.65. In addition to the fees charged pursuant to Section 4996.6 for the biennial renewal of a license, the ~~board~~ *department* shall collect an additional fee of ten dollars ($10) at the time of renewal. The ~~board~~ *department* shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

SEC. 438. Section 4997 of the Business and Professions Code is amended to read:

4997. (a) A licensee may apply to the ~~board~~ *department* to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of clinical social work in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee in the amount of one-half of the standard renewal fee and shall be exempt from continuing education requirements.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice clinical social work to active status.

(1) A licensee requesting his or her license be restored to active status between renewal cycles shall pay the remaining one-half of his or her renewal fee.

(2) A licensee requesting to restore his or her license to active status whose license will expire less than one year from the date of the request shall complete 18 hours of continuing education as specified in Section 4996.22.

(3) A licensee requesting to restore his or her license to active status whose license will expire more than one year from the date of the request shall complete 36 hours of continuing education as specified in Section 4996.22.

SEC. 439. Section 5000 of the Business and Professions Code is repealed.

~~5000. There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, seven of whom shall be licensees, and eight of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.~~

~~The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint members representing a cross section of the accounting profession with at least two members representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four licensees as partners, owners, or full-time employees in the practice of public accountancy within the State of California.~~

~~This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the Joint Committee on Boards, Commissions, and Consumer Protection and the board regarding the implementation of new licensing requirements.~~

SEC. 440. Section 5000 is added to the Business and Professions Code, to read:

5000. Any reference to the "board" in this chapter, or to the California Board of Accountancy in any law or regulation, shall refer to the Department of Consumer Affairs or the Director of the Department of Consumer Affairs, as indicated by the context.

SEC. 441. Section 5000.1 of the Business and Professions Code is repealed.

~~5000.1. Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

SEC. 442. Section 5000.5 of the Business and Professions Code is repealed.

~~5000.5. No public member shall be a current or former licensee of the board or an immediate family member of a licensee, or be currently or formerly employed by a public accounting firm, bookkeeping firm, or firm engaged in providing tax preparation as its primary business, or have any financial interest in the business of a licensee. Each public member shall meet all of the requirements for public membership on the board as set forth in Chapter 6 (commencing with Section 450) of Division 1.~~

SEC. 443. Section 5001 of the Business and Professions Code is repealed.

~~5001. (a) Except as provided in subdivision (b), each member of the board, except the public members, shall be actively engaged in the practice of public accountancy and shall have been so engaged for a period of not less than five years preceding the date~~

~~of his appointment. Each member shall be a citizen of the United States and a resident of this state for at least five years next preceding his appointment, and shall be of good character. Within 30 days after their appointment, the members of the board shall take and subscribe to the oath of office as prescribed by the Government Code and shall file the same with the Secretary of State.~~

~~(b) One licensee member appointed by the Governor may be an active educator within a program that emphasizes the study of accounting within a college, university, or four-year educational institution.~~

SEC. 444. Section 5002 of the Business and Professions Code is repealed.

~~5002. Each member shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.~~

~~Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in the same capacity as the person being replaced. No person shall serve more than two terms consecutively. The Governor shall remove from the board any member, except a public member, whose permit to practice has become void, revoked or suspended. The Governor may, after hearing, remove any member of the board for neglect of duty or other just cause.~~

SEC. 445. Section 5003 of the Business and Professions Code is repealed.

~~5003. The officers of the board are a president, vice president and a secretary-treasurer.~~

SEC. 446. Section 5004 of the Business and Professions Code is repealed.

~~5004. The president, vice president, and secretary-treasurer shall be elected by the board for a term of one year from among its members at the time of the annual meeting. The newly elected president, vice president, and secretary-treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected.~~

SEC. 447. Section 5006 of the Business and Professions Code is repealed.

~~5006. The officers of the board shall continue in office until their successors are elected and qualify.~~

SEC. 448. Section 5007 of the Business and Professions Code is repealed.

~~5007. The president shall preside at all meetings of the board, and in the event of his absence or inability to act, the vice president shall preside. Other duties of the president, vice president, and the duties of the secretary-treasurer, shall be such as the board may prescribe.~~

SEC. 449. Section 5008 of the Business and Professions Code is amended to read:

5008. The ~~board~~ *department* shall, from time to time, but not less than twice each year, prepare and distribute to all licensees, a report of the *relevant* activities of the ~~board~~ *department*, including amendments to this chapter and regulations adopted by the ~~board~~ *department*, and may likewise distribute reports of other matters of interest to the public and to practitioners.

SEC. 450. Section 5009 of the Business and Professions Code is amended to read:

5009. The ~~board~~ *department* shall compile and maintain, or may have compiled and maintained on its behalf, a register of licensees that contains information that the ~~board~~ *department* determines is necessary for the purposes for which the ~~board~~ *department* was established. The ~~board~~ *department* shall make the register available to any licensee and to the public.

SEC. 451. Section 5010 of the Business and Professions Code is amended to read:

5010. The ~~board~~ *department* may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The 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.

SEC. 452. Section 5011 of the Business and Professions Code is repealed.

~~5011. The board shall designate the location of its principal office and may establish branch offices in other locations.~~

SEC. 453. Section 5012 of the Business and Professions Code is repealed.

~~5012. The board shall have a seal.~~

SEC. 454. Section 5013 of the Business and Professions Code is amended to read:

5013. The ~~board~~ *department* shall keep records of all proceedings and actions by and before the ~~board~~ *department* and before its committees. In any proceeding in court, civil or criminal, copies of those records certified as correct by the ~~executive officer of the board~~ *director* under seal of the ~~board~~ *department* shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

SEC. 455. Section 5015 of the Business and Professions Code is amended to read:

5015. The ~~board~~ *department* may employ clerks, examiners and, except as provided by Section 159.5, other assistants in the performance of its duties, and pay salaries and necessary expenses.

SEC. 456. Section 5015.6 of the Business and Professions Code is repealed.

~~5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 457. Section 5016 of the Business and Professions Code is repealed.

~~5016. A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board for which a notice of at least seven days is given by the president or executive officer. Notice of meetings may be waived in writing either before or after the meeting by unanimous consent of all members. The board shall meet at the call of the president and executive officer, but not less than twice each year. Any two members of the board may request the executive officer to call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.~~

SEC. 458. Section 5017 of the Business and Professions Code is repealed.

~~5017. All meetings of the board shall be open and public, except that the board may hold executive sessions to deliberate on the decision to be reached upon the evidence introduced in a proceeding conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code.~~

~~The members of the board may hold executive sessions to prepare, approve, grade, or administer examinations and shall have jurisdiction or vote over these functions of preparing, approving, grading, or administering examinations in executive session as provided for in Section 11126 of the Government Code.~~

SEC. 459. Section 5018 of the Business and Professions Code is amended to read:

5018. The ~~board~~ *department* may by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession. In addition to the requirements contained in Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, a copy of the rules shall be mailed to every holder of a license under this chapter at least 30 days prior to a date named for a public hearing held for the purpose of receiving and considering objections to any of the proposed provisions. Every licensee of the ~~California Board of Accountancy~~ *department under this chapter* in this state shall be governed and controlled by the rules and standards adopted by the ~~board~~ *department*.

SEC. 460. Section 5020 of the Business and Professions Code is amended to read:

5020. The ~~board~~ *director* may, for the purpose of obtaining technical expertise, appoint an administrative committee of not more than 13 licensees to provide advice and assistance related to the functions specified in Section 5103. The committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted pursuant to this section to the ~~board, or upon direction of the board, to the executive officer~~ *director*.

SEC. 461. Section 5022 of the Business and Professions Code is amended to read:

5022. The committee shall make recommendations and forward its report to the ~~board~~ *director* for action on any matter on which it is authorized to act. Any applicant for registration as a certified public accountant who is aggrieved by any action taken by the committee with respect to his or her qualifications may appeal to the ~~board~~ *director* in accordance with rules or regulations prescribed by the ~~board~~ *department*. The ~~board~~ *director* on the appeal may give an oral or written examination as an aid in determining whether the applicant is qualified under the terms of this chapter.

SEC. 462. Section 5023 of the Business and Professions Code is amended to read:

5023. The ~~board~~ *director* may establish an advisory committee of ~~its own~~ certified public accountant members or other certified public accountants of the state in good standing, to perform either of the following advisory duties:

(a) To examine all applicants for the license of certified public accountant.

(b) To recommend to the ~~board~~ *director* applicants for the certified public accountant license who fulfill the requirements of this chapter.

SEC. 463. Section 5024 of the Business and Professions Code is amended to read:

5024. The ~~board~~ *director* may create and appoint other advisory committees consisting of public accountants or certified public accountants of this state in good standing ~~and who need not be members of the board~~ for the purpose of making recommendations on matters as may be specified by the ~~board~~ *director*.

SEC. 464. Section 5025.1 of the Business and Professions Code is amended to read:

5025.1. (a) The ~~board~~ *department* may contract with and employ certified public accountants and public accountants as consultants and experts to assist in the investigation and prosecution of judicial and administrative matters.

(b) Contracts made pursuant to this section are not subject to Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, except that the ~~board~~ *department* shall apply the standards set forth in Section 19130 in awarding personal service contracts under this section.

(c) Notwithstanding any other provision of law, the ~~board~~ *department* may contract with these consultants and experts on a sole source basis.

(d) If a person, not a regular employee of the ~~board~~ *department*, is hired or under contract to provide expertise to the ~~board~~ *director* in the evaluation of the conduct of a licensee, and that person is named as a defendant in a civil action for defamation, tortious interference with prospective business advantage, or other civil causes of action directly resulting from opinions rendered, statements made, or testimony given to the ~~board~~ *department*, its committees, staff, legal counsel, or other representatives, or in any proceeding instituted by the ~~board~~ *department* or to which the ~~board~~ *department* is a party, the ~~board~~ *department* shall provide for representation required to defend that person in that civil action and shall indemnify that person for any judgment rendered against him or her. This right of defense and indemnification shall be the same as, and no greater than, the right provided to a public employee pursuant to Section 825 of the Government Code. Nothing herein shall be construed as expanding or limiting any immunity from liability otherwise provided by law.

(e) ~~On~~ *Notwithstanding Section 7550.5 of the Government Code, on* or before June 1 of each year, the ~~board~~ *department* shall report to the appropriate policy and fiscal committees of each house of the Legislature the terms of the contract or contracts entered into each fiscal year pursuant to this section. The report shall include the cost, services, terms and duration provided under each contract, the identity of the firms or individuals awarded any contract, and data demonstrating the cost effectiveness of the ~~board's~~ *department's* sole-source contracting in the investigation and prosecution of the ~~board's~~ *department's* enforcement programs.

SEC. 465. Section 5025.2 of the Business and Professions Code is repealed.

~~5025.2. (a) The Legislature finds that there are occasions when the California Board of Accountancy urgently requires additional expenditure authority in order to fund unanticipated enforcement and litigation activities. Without sufficient expenditure authority to obtain the necessary additional resources for urgent litigation and enforcement matters, the board is unable to adequately protect the public. Therefore, it is the intent of the Legislature that, apart from, and in addition to, the expenditure authority that may~~

~~otherwise be established, the California Board of Accountancy shall be given the increase in its expenditure authority in any given current fiscal year that is authorized by the Department of Finance pursuant to the provisions of subdivision (b) of this section, for costs and services in urgent litigation and enforcement matters, including, but not limited to, costs for professional and consulting services and for the services of the Attorney General and the Office of Administrative Hearings.~~

~~(b) Notwithstanding Control Section 27.00 of the annual Budget Act, Section 11006 of the Government Code, and the amount listed in the annual Budget Act for expenditure, the Department of Finance shall authorize up to two million dollars ($2,000,000) in additional expenditures for the California Board of Accountancy upon a showing by the board that those funds are necessary for public protection and that the shortfall was not anticipated. These additional expenditures shall be payable from the Accountancy Fund for purposes of the board's litigation or enforcement activities in any given current fiscal year.~~

SEC. 466. Section 5025.3 of the Business and Professions Code is repealed.

~~5025.3. (a) Whenever the board enters into a contract for litigation or enforcement purposes, including, but not limited to, contracts pursuant to Section 5025.1, funds may be encumbered in the fiscal year the contract is executed and expended at any time during the subsequent 24 months commencing with the last day of the fiscal year in which the contract is executed.~~

~~(b) Notwithstanding Section 13340 of the Government Code, funds encumbered for a contract pursuant to subdivision (a) of this section are continuously appropriated without regard to fiscal year, however, the appropriation is limited to the period for which funds are authorized to be encumbered under subdivision (a).~~

SEC. 467. Section 5026 of the Business and Professions Code is amended to read:

5026. The Legislature has determined it is in the public interest to require that certified public accountants and public accountants licensed under provisions of this chapter comply with continuing education requirements adopted by the ~~board~~ *department* as a prerequisite to the renewal of public accountancy licenses on and after December 31, 1974.

SEC. 468. Section 5027 of the Business and Professions Code is amended to read:

5027. The ~~board~~ *department* shall by regulation prescribe, amend, or repeal rules including, but not limited to, all of the following:

(a) A definition of basic requirements for continuing education.

(b) A licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency shall complete a minimum of 24 hours of qualifying continuing education in the area of governmental accounting and auditing or related subjects during the two-year license renewal period.

(c) A licensee who provides audit, review, other attestation services, or issues compiled financial statement reports shall, during the two-year license renewal period, complete a minimum of 24 hours of qualifying continuing education in the area of accounting and auditing related to reporting on financial statements.

(d) A licensee with a valid permit to practice public accountancy shall, within a six-year period, complete a continuing education course on the provisions of this chapter and the rules of professional conduct.

(e) A licensee on inactive status shall complete the continuing education course required by subdivision (d) prior to reentering public practice.

(f) A delineation of qualifying programs for maintaining competency.

(g) A system of control and compliance reporting.

In exercising its power under this section for the interests of consumer protection, the ~~board~~ *department* shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by licensees. The standards shall be established in a manner to assure that a variety of alternatives are available to licensees to comply with the continuing education requirements for renewal of licenses and taking cognizance of specialized areas of practice.

SEC. 469. Section 5028 of the Business and Professions Code is amended to read:

5028. The ~~board~~ *director* may, in accordance with the intent of this article, make exceptions from continuing education requirements for licensees not engaged in public practice, or for reasons of health, military service, or other good cause; provided,

however, that if such licensee returns to the practice of public accounting he *or she* shall meet such continuing education requirements as the ~~board~~ *department* may determine.

SEC. 470. Section 5029 of the Business and Professions Code is amended to read:

5029. The ~~board~~ *director* may establish an advisory continuing education committee of nine members, six of whom shall be certified public accountants, ~~two of whom shall be board members,~~ one of whom is a public member ~~of the board~~, and one of whom shall be a public accountant, to perform any of the following duties:

(a) To evaluate programs and advise the ~~board~~ *director* as to whether they qualify under the regulations adopted by the ~~board~~ *department* pursuant to subdivision (f) of Section 5027. Educational courses offered by professional accounting societies shall be accepted by the ~~board~~ *department* as qualifying if the courses are approved by the committee as meeting the requirements of the ~~board~~ *department* under the regulations.

(b) To consider applications for exceptions as permitted under Section 5028 and provide a recommendation to the ~~board~~ *department*.

(c) To consider other advisory matters relating to the requirements of this article as the ~~board~~ *director* may assign to the committee.

SEC. 471. Section 5030 of the Business and Professions Code is repealed.

~~5030. "Board" means the California Board of Accountancy.~~

SEC. 472. Section 5084 of the Business and Professions Code is amended to read:

5084. For applicants seeking licensure pursuant to subdivision (b) of Section 5090, the ~~board~~ *department* shall grant one year's credit toward fulfillment of its public accounting experience requirement to a graduate of a college who has completed a four-year course with 45 or more semester units or the equivalent thereof in the study of accounting and related business administration subjects, of which at least 20 semester units or the equivalent thereof shall be in the study of accounting.

The ~~members of the board~~ *department* shall prescribe rules establishing the character and variety of experience necessary to fulfill the experience requirements set forth in this section.

This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 473. Section 5133 of the Business and Professions Code is amended to read:

5133. All money in the Accountancy Fund is hereby appropriated to the ~~California Board of Accountancy~~ *Department of Consumer Affairs* to carry out the provisions of this chapter. Each member of ~~the board and each member of~~ a committee shall receive a per diem and expenses as provided in Section 103.

SEC. 474. Section 5150 of the Business and Professions Code is amended to read:

5150. An accountancy corporation is a corporation which is registered with the ~~California Board of Accountancy~~ *Department of Consumer Affairs* and has a currently effective certificate of registration from the ~~board~~ *department* pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, an accountancy corporation is entitled to practice accountancy. With respect to an accountancy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the ~~California Board of Accountancy~~ *Department of Consumer Affairs*.

SEC. 475. Section 5502 of the Business and Professions Code is repealed.

~~5502. As used in this chapter, board refers to the California Architects Board.~~

SEC. 476. Section 5502 is added to the Business and Professions Code, to read:

5502. Any reference to "board" in this chapter, or to the California Architects Board or the California Board of Architectural Examiners in any law or regulation, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of the Department of Consumer Affairs.

SEC. 477. Section 5510 of the Business and Professions Code is repealed.

~~5510. There is in the Department of Consumer Affairs a California Architects Board which consists of 10 members.~~

~~Any reference in law to the California Board of Architectural Examiners shall mean the California Architects Board.~~

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 478. Section 5514 of the Business and Professions Code is repealed.

~~5514. The membership of the board shall be composed of 10 members, five of whom shall be architects and five of whom shall be public members.~~

~~The five professional members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for at least five years at the time of appointment, all of whom shall be residents and in practice in California.~~

~~The public members of the board shall not be licensees of the board.~~

~~This section shall become operative on January 1, 1988.~~

SEC. 479. Section 5515 of the Business and Professions Code is repealed.

~~5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.~~

~~No person shall serve as a member of the board for more than two consecutive terms.~~

~~Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.~~

~~Each appointment shall expire on June 30 of the fourth year following the year in which the previous term expired.~~

~~The Governor shall appoint three of the public members and the five licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 480. Section 5516 of the Business and Professions Code is repealed.

~~5516. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 481. Section 5517 of the Business and Professions Code is repealed.

~~5517. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 482. Section 5518 of the Business and Professions Code is repealed.

~~5518. The board shall elect from its members a president, a vice president, and a secretary to hold office for one year, or until their successors are duly elected and qualified.~~

SEC. 483. Section 5520 of the Business and Professions Code is repealed.

~~5520. The board shall adopt a seal for its own use. The seal used shall have the words, "State Board of Architectural Examiners" inscribed thereon.~~

~~The executive officer shall have the care and custody of the seal.~~

SEC. 484. Section 5521 of the Business and Professions Code is repealed.

~~5521. The executive officer shall keep an accurate record of all proceedings of the board.~~

SEC. 485. Section 5522 of the Business and Professions Code is repealed.

~~5522. The board shall meet at least once each calendar quarter for the purpose of transacting such business as may lawfully come before it.~~

~~The board may hold meetings at such other times and at such places as it may designate.~~

SEC. 486. Section 5523 of the Business and Professions Code is repealed.

~~5523. Special meetings of the board shall be called by the executive officer upon the written notice of four members by giving each member of the board 10 days' written notice of the time and place of the meeting.~~

SEC. 487. Section 5524 of the Business and Professions Code is repealed.

~~5524. Six of the members of the board constitute a quorum of the board for the transaction of business. The concurrence of five members of the board present at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the board, except that when all 10 members of the board are present at a meeting duly held, the concurrence of six members shall be necessary to constitute an act or decision of the board.~~

SEC. 488. Section 5525 of the Business and Professions Code is amended to read:

5525. The ~~board~~ *director* may prosecute all persons guilty of violating the provisions of this chapter. Except as provided in Section 159.5, the ~~board~~ *director* may employ inspectors, special agents, investigators, and such clerical assistants as it may deem necessary to carry into effect the provisions of this chapter. It may also fix the compensation to be paid for such services and incur such additional expense as may be deemed necessary.

SEC. 489. Section 5526 of the Business and Professions Code is amended to read:

5526. (a) The ~~board~~ *department* shall adopt rules and regulations governing the examination of applicants for licenses to practice architecture in this state.

(b) The ~~board~~ *department* may, by rule or regulation, adopt rules of professional conduct that are not inconsistent with state or federal law. Every person who holds a license issued by the ~~board~~ *department* shall be governed and controlled by these rules.

(c) The ~~board~~ *department* may adopt other rules and regulations as may be necessary and proper.

(d) The ~~board~~ *department* may, from time to time, repeal, amend, or modify rules and regulations adopted under this section. No rule or regulation shall be inconsistent with this chapter.

(e) The ~~board~~ *department* shall adopt, by regulation, a system as described in Section 125.9 for the issuance to a licensee of a citation and a system as described in Section 148 for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of the ~~board~~ *department*.

(f) The adoption, repeal, amendment, or modification of these rules and regulations shall be made in accordance with Chapter

3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 490. Section 5528 of the Business and Professions Code is amended to read:

5528. (a) The ~~board~~ *department* may select and contract with necessary architect consultants who are licensed architects to assist it in its enforcement program on an intermittent basis. The architect consultants shall perform only those services that are necessary to carry out and enforce this chapter.

(b) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the ~~board~~ *director pursuant to this section* shall be considered a public employee.

SEC. 491. Section 5620 of the Business and Professions Code is amended to read:

5620. ~~The duties, powers, purposes, responsibilities, and jurisdiction of the California State Board of Landscape Architects that were succeeded to and vested with the Department of Consumer Affairs in accordance with Chapter 908 of the Statutes of 1994 are hereby transferred to the California Architects Board. The Legislature finds that the purpose for the transfer of power is to promote and enhance the efficiency of state government and that assumption of the powers and duties by the California Architects Board shall not be viewed or construed as a precedent for the establishment of state regulation over a profession or vocation that was not previously regulated by a board, as defined in Section 477.~~

~~(a) There is in the Department of Consumer Affairs a California Architects Board as defined in Article 2 (commencing with Section 5510) of Chapter 3.~~

~~Whenever in this chapter "board" is used it refers to the California Architects Board.~~

~~(b) Except as provided herein, the board may delegate its authority under this chapter to the Landscape Architects Technical Committee.~~

~~(c) After review of proposed regulations, the board may direct the examining committee to notice and conduct hearings to adopt, amend, or repeal regulations pursuant to Section 5630, provided that the board itself shall take final action to adopt, amend, or repeal those regulations.~~

~~(d) The board shall not delegate its authority to discipline a landscape architect or to take action against a person who has violated this chapter.~~

(a) Any reference to the "board" or "executive officer" in this chapter, or to the California State Board of Landscape Architects, the California Architects Board, or the California Board of Architectural Examiners, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of Consumer Affairs.

~~(e)~~

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 492. Section 5620.1 of the Business and Professions Code is repealed.

~~5620.1. Protection of the public shall be the highest priority for the Landscape Architects Technical Committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

SEC. 493. Section 5621 of the Business and Professions Code is repealed.

~~5621. (a) There is hereby created within the jurisdiction of the board, a Landscape Architects Technical Committee, hereinafter referred to in this chapter as the landscape architects committee.~~

~~(b) The landscape architects committee shall consist of five members who shall be licensed to practice landscape architecture in this state. The Governor shall appoint three of the members. The Senate Committee on Rules and the Speaker of the Assembly shall appoint one member each.~~

~~(c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; and one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of his or her successor or until one year shall~~

~~have elapsed whichever first occurs. Vacancies shall be filled for the unexpired term.~~

~~(d) No person shall serve as a member of the landscape architects committee for more than two consecutive terms.~~

~~(e) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 494. Section 5622 of the Business and Professions Code is repealed.

~~5622. (a) The landscape architects committee may assist the board in the examination of candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of this chapter.~~

~~(b) The landscape architects committee may investigate, assist, and make recommendations to the board regarding the regulation of landscape architects in this state.~~

~~(c) The landscape architects committee may perform duties and functions that have been delegated to it by the board pursuant to Section 5620.~~

~~(d) The landscape architects committee may send a representative to all meetings of the full board to report on the committee's activities.~~

~~(e) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 495. Section 5624 of the Business and Professions Code is repealed.

~~5624. Each member of the landscape architects committee shall receive per diem and expenses, as provided in Section 103.~~

SEC. 496. Section 5626 of the Business and Professions Code is repealed.

~~5626. The executive officer shall keep an accurate record of all proceedings of the landscape architects committee.~~

SEC. 497. Section 6710 of the Business and Professions Code is repealed.

~~6710. (a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.~~

~~(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.~~

~~(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 498. Section 6710 is added to the Business and Professions Code, to read:

6710. Any reference to the "board" in this chapter, or to the Board of Registration for Professional Engineers and Land Surveyors or to the Board for Professional Engineers and Land Surveyors in any law or regulation, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of the Department of Consumer Affairs.

SEC. 499. Section 6711 of the Business and Professions Code is repealed.

~~6711. Each member of the board shall be a citizen of the United States. Five members shall be registered under this chapter. One member shall be licensed under the Land Surveyors' Act, Chapter 15 (commencing with Section 8700) of this division, and seven shall be public members who are not registered under this act or licensed under the Land Surveyors' Act. Each member, except the public members, shall have at least 12 years active experience and shall be of good standing in his profession. Each member shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding his appointment.~~

SEC. 500. Section 6712 of the Business and Professions Code is repealed.

~~6712. (a) All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 30 of the fourth year following the year in which the previous term expired.~~

~~(b) Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have~~

~~elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.~~

~~(c) The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering. One of the professional members licensed under this chapter or under Chapter 15 (commencing with Section 8700) shall be from a local public agency, and one shall be from a state agency.~~

~~(d) The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 501. Section 6713 of the Business and Professions Code is repealed.

~~6713. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.~~

SEC. 502. Section 6714 of the Business and Professions Code is repealed.

~~6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.~~

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 503. Section 6715 of the Business and Professions Code is amended to read:

6715. The ~~board~~ *department* shall compile and maintain, or may have compiled and maintained on its behalf, a register of all licensees that contains information showing the name, address of record, type of branch license, license number, the date the license was issued, and the date the license will expire.

SEC. 504. Section 6716 of the Business and Professions Code is amended to read:

6716. (a) The ~~board~~ *department* may adopt rules and regulations consistent with law and necessary to govern its action. These rules and regulations shall be adopted in accordance with

the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) The ~~board~~ *department* may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter shall be governed by these rules and regulations.

(c) The ~~board~~ *department* shall hold at least two regular meetings each year. Special meetings shall be held at those times that the ~~board's~~ *department's* rules provide. A majority of the ~~board~~ *department* constitutes a quorum.

SEC. 505. Section 6717 of the Business and Professions Code is amended to read:

6717. The ~~board~~ *department* may, by regulation, define the scope of each branch of professional engineering other than civil, electrical, and mechanical engineering for which registration is provided under this chapter.

SEC. 506. Section 6718 of the Business and Professions Code is amended to read:

6718. ~~Any member of the board~~ *Officers of the Department of Consumer Affairs* may administer oaths and may take testimony and proofs concerning all matters within the ~~board's~~ *department's* jurisdiction.

SEC. 507. Section 6719 of the Business and Professions Code is amended to read:

6719. The ~~board~~ *department* shall adopt and have an official seal which shall be affixed to all certificates of registration.

SEC. 508. Section 6720 of the Business and Professions Code is repealed.

~~6720. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 509. Section 6726 of the Business and Professions Code is amended to read:

6726. The ~~board~~ *Director of Consumer Affairs* may establish one or more technical advisory committees to advise and assist the ~~board~~ *director* with respect to the following:

(1) Application review and verification for any level of registration, licensure, authority, or title.

(2) Evaluation and investigation of potential violations of the act.

(3) Amendment, repeal, adoption, or revision of ~~board~~ *department* rules, regulations, policies, and procedures.

SEC. 510. Section 6726.1 of the Business and Professions Code is amended to read:

6726.1. Each member of each technical advisory committee shall be appointed by the ~~board~~ *director* and shall serve at the pleasure of the ~~board~~ *director*. Each committee shall be composed of no more than five members.

SEC. 511. Section 6728 of the Business and Professions Code is amended to read:

6728. The ~~board~~ *director*, when it deems necessary, may establish professional engineers review committees to hear all matters assigned by the ~~board~~ *director*, including, but not limited to, any contested case which is assigned by the ~~board~~ *director*. Each committee shall exist so long as the ~~board~~ *director* deems that it is necessary.

SEC. 512. Section 6728.1 of the Business and Professions Code is amended to read:

6728.1. Each review committee shall consist of no fewer than three registered professional engineers appointed by the ~~board~~ *department*. Each member of a committee shall ~~have the same qualifications and shall be subject to the same rules and regulations as if he were a member of the board~~ *be a citizen of the United States, have at least 12 years active experience, be in good standing in his or her profession, be at least 30 years of age, and have been a resident of this state for at least five years immediately preceding his or her appointment*.

SEC. 513. Section 6728.4 of the Business and Professions Code is amended to read:

6728.4. At the conclusion of any hearing which is conducted by a committee, the committee shall prepare a proposed decision, in such form that it may be adopted by the ~~board~~ *director* as the decision in the case, and shall transmit it to the ~~board~~ *director*. The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code.

SEC. 514. Section 6728.5 of the Business and Professions Code is amended to read:

6728.5. The ~~board~~ *department* may adopt, amend, or repeal, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, rules and regulations necessary to implement these sections.

SEC. 515. Section 6728.6 of the Business and Professions Code is amended to read:

6728.6. Each member of a professional engineers review committee or other ~~board-appointed~~ *director-appointed* committee and any ~~board-appointed~~ *director-appointed* representative of the ~~board~~ *department* shall be granted the same immunity as is granted to a public employee pursuant to Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

SEC. 516. Section 6730 of the Business and Professions Code is amended to read:

6730. In order to safeguard life, health, property and public welfare, any person, either in a public or private capacity, except as in this chapter specifically excepted, who practices, or offers to practice, civil engineering, electrical engineering or mechanical engineering, in any of its branches in this state, including any person employed by the State of California, or any city, county, or city and county, who practices engineering, shall submit evidence that he or she is qualified to practice, and shall be licensed accordingly as a civil engineer, electrical engineer or mechanical engineer by the ~~board~~ *department*.

SEC. 517. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. ~~(a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.~~

~~(b)~~

(a) The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this ~~board~~ *chapter* by the department shall be limited to only those unresolved issues identified by the Joint Committee on Boards, Commissions, and Consumer Protection.

(b) Any reference to the Contractors' State License Board in any law or regulation, or to the "board" in this chapter, shall refer to the Department of Consumer Affairs.

(c) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 518. Section 7001 of the Business and Professions Code is repealed.

~~7001. All members of the board, except the public members, shall be contractors actively engaged in the contracting business, have been so engaged for a period of not less than five years preceding the date of their appointment and shall so continue in the contracting business during the term of their office. No one, except a public member, shall be eligible for appointment who does not at the time hold an unexpired license to operate as a contractor.~~

~~The public members shall not be licentiates of the board.~~

SEC. 519. Section 7002 of the Business and Professions Code is repealed.

~~7002. (a) One member of the board shall be a general engineering contractor, two members shall be general building contractors, two members shall be specialty contractors, one member shall be a member of a labor organization representing the building trades, one member shall be an active local building official, and eight members shall be public members, one of whom shall be from a statewide senior citizen organization.~~

~~(b) No public member shall be a current or former licensee of the board or a close family member of a licensee or be currently or formerly connected with the construction industry or have any financial interest in the business of a licensee of the board. Each public member shall meet all of the requirements for public membership on a board as set forth in Chapter 6 (commencing with Section 450) of Division 1. Notwithstanding the provisions of this subdivision and those of Section 450, a representative of a labor organization shall be eligible for appointment to serve as a public member of the board.~~

~~(c) Each contractor member of the board shall be of recognized standing in his or her branch of the contracting business and hold an unexpired license to operate as a contractor. In addition, each contractor member shall, as of the date of his or her appointment,~~

~~be actively engaged in the contracting business and have been so engaged for a period of not less than five years. Each contractor member shall remain actively engaged in the contracting business during the entire term of his or her membership on the board.~~

~~(d) Each member of the board shall be at least 30 years of age and of good character. In addition, each member shall have been a citizen and resident of the State of California for at least five years next preceding his or her appointment.~~

~~(e) For the purposes of construing this article, the terms "general engineering contractor," "general building contractor," and "specialty contractor" shall have the meanings given in Article 4 (commencing with Section 7055) of this chapter.~~

SEC. 520. Section 7003 of the Business and Professions Code is repealed.

~~7003. Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his or her successor or until the office is deemed to be vacant pursuant to Section 1774 of the Government Code, whichever first occurs.~~

~~Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.~~

~~No person shall serve as a member of the board for more than two consecutive terms.~~

~~The Governor shall appoint four of the public members, including the public member who is from a statewide senior citizen organization, the local building official, the member of a labor organization representing the building trades, and the five contractor members qualified as provided in Section 7002. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members.~~

SEC. 521. Section 7005 of the Business and Professions Code is repealed.

~~7005. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.~~

SEC. 522. Section 7006 of the Business and Professions Code is repealed.

~~7006. The board shall meet at least once each calendar quarter for the purpose of transacting business as may properly come before it.~~

~~Special meetings of the board may be held at times as the board may provide in its bylaws. Four members of the board may call a special meeting at any time.~~

SEC. 523. Section 7007 of the Business and Professions Code is repealed.

~~7007. Eight members constitute a quorum at a board meeting.~~

~~Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the bylaws.~~

SEC. 524. Section 7008 of the Business and Professions Code is repealed.

~~7008. The board may appoint such committees and make such rules and regulations as are reasonably necessary to carry out the provisions of this chapter. Such rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.~~

SEC. 525. Section 7009 of the Business and Professions Code is repealed.

~~7009. Any member or committee of the board may administer oaths and may take testimony and proofs concerning all matters within the jurisdiction of the board.~~

SEC. 526. Section 7010 of the Business and Professions Code is repealed.

~~7010. The board is vested with all functions and duties relating to the administration of this chapter, except those functions and duties vested in the director under the provisions of Division I of this code.~~

SEC. 527. Section 7011 of the Business and Professions Code is repealed.

~~7011. The board, by and with the approval of the director, shall appoint a registrar of contractors and fix his or her compensation.~~

~~The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.~~

~~For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer,~~

~~and, subject to Section 159.5, other assistants and subordinates as may be necessary.~~

~~Appointments shall be made in accordance with the provisions of civil service laws.~~

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 528. Section 7011.3 of the Business and Professions Code is amended to read:

7011.3. The ~~registrar~~ *director* shall not assess a civil penalty against a licensed contractor who has been assessed a specified civil penalty by the Labor Commissioner under Section 1020 or 1022 of the Labor Code for the same offense.

SEC. 529. Section 7011.4 of the Business and Professions Code is amended to read:

7011.4. ~~(a) Notwithstanding Section 7011, there is in the Contractors' State License Board, a separate enforcement unit which shall rigorously enforce this chapter prohibiting all forms of unlicensed activity.~~

~~(b) Persons employed as enforcement representatives in this unit and designated by the Director of Consumer Affairs~~ *Persons employed by the department as enforcement representatives to prohibit all forms of unlicensed activity pursuant to this chapter* are not peace officers and are not entitled to safety member retirement benefits. They do not have the power of arrest. However, they may issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

SEC. 530. Section 7011.5 of the Business and Professions Code is amended to read:

7011.5. Persons employed as investigators of the Special Investigations Unit of the ~~Contractors' State License Board~~ *department* and designated by the Director of Consumer Affairs have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them in investigating the laws administered by the ~~Contractors' State License Board~~ *department under this chapter* or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein

referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters in this section set forth.

SEC. 531. Section 7011.7 of the Business and Professions Code is amended to read:

7011.7. (a) The ~~registrar~~ *department* shall review and investigate complaints filed in a manner consistent with this chapter and the Budget Act. It is the intent of the Legislature that complaints be reviewed and investigated as promptly as resources allow.

(b) The ~~board~~ *department* shall set as a goal the improvement of its disciplinary system so that an average of no more than six months elapses from the receipt of a complaint to the completion of an investigation.

(c) Notwithstanding subdivision (a), the goal for completing the review and investigation of complaints that, in the opinion of the ~~board~~ *department*, involve complex fraud issues or complex contractual arrangements, should be no more than one year.

SEC. 532. Section 7012 of the Business and Professions Code is amended to read:

7012. The ~~registrar, with the approval of the board and the director~~ *department*, may, when funds are available, cooperate in the enforcement of governmental legislation relating to the construction industry, and, except as provided by Section 159.5, shall appoint such assistants as may be necessary therefor.

SEC. 533. Section 7013 of the Business and Professions Code is repealed.

~~7013. The board may in its discretion review and sustain or reverse by a majority vote any action or decision of the registrar.~~

~~This section shall apply to any action, decision, order, or proceeding of the registrar conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

SEC. 534. Section 7015 of the Business and Professions Code is repealed.

~~7015. The board shall adopt a seal for its own use. The seal shall have the words "Contractors' State License Board, State of California, Department of Consumer Affairs," and the care and custody thereof shall be in the hands of the registrar.~~

SEC. 535. Section 7016 of the Business and Professions Code is repealed.

~~7016. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 536. Section 7019 of the Business and Professions Code is amended to read:

7019. (a) If funding is made available for that purpose, the ~~board~~ *department* may contract with licensed professionals, as appropriate, for the site investigation of consumer complaints.

(b) The ~~board~~ *department* may contract with other professionals, including, but not limited to, interpreters and manufacturer's representatives, whose skills or expertise are required to aid in the investigation or prosecution of a licensee, registrant, applicant for a license or registration, or those subject to licensure or registration by the ~~board~~ *department*.

(c) The ~~registrar~~ *department* shall determine the rate of reimbursement for those individuals providing assistance to the ~~board~~ *department* pursuant to this section. All reports shall be completed on a form prescribed by the ~~registrar~~ *department*.

(d) As used in this section, "licensed professionals" means, but is not limited to, engineers, architects, landscape architects, geologists, and accountants licensed, certificated, or registered pursuant to this division.

SEC. 537. Section 7200 of the Business and Professions Code is repealed.

~~7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.~~

~~(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 538. Section 7200.1 of the Business and Professions Code is repealed.

~~7200.1. Protection of the public shall be the highest priority for the State Board of Guide Dogs for the Blind in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

SEC. 539. Section 7200.5 of the Business and Professions Code is repealed.

~~7200.5. The board shall have exclusive authority in this state to issue licenses for the instruction of blind persons in the use of guide dogs and for the training of guide dogs for use by blind persons. It shall also have exclusive authority in this state to issue licenses to operate schools for the training of guide dogs for the blind, and the instruction of blind persons in the use of guide dogs.~~

SEC. 540. Section 7201 of the Business and Professions Code is repealed.

~~7201. No person shall be eligible to membership in the board who is a stockholder in, or an owner of, or financially interested directly or indirectly, in any company, organization, or concern supplying, delivering, or furnishing any guide dogs for use by the blind.~~

SEC. 541. Section 7201 is added to the Business and Professions Code, to read:

7201. The Department of Consumer Affairs hereby succeeds to, and is vested with, all the duties, responsibilities, and functions of the Board of Guide Dogs for the Blind, which is hereby abolished.

SEC. 542. Section 7202 of the Business and Professions Code is repealed.

~~7202. Each of the appointed members of the board shall hold office for a term of four years and until his successor is appointed and qualified or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as an appointed member of the board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.~~

SEC. 543. Section 7202 is added to the Business and Professions Code, to read:

7202. Any reference to the Board of Guide Dogs for the Blind, which shall be known as the predecessor entity, shall be deemed to refer to the department.

SEC. 544. Section 7203 of the Business and Professions Code is repealed.

~~7203. The board shall organize and elect from its membership a president and vice president and secretary who shall hold office for one year or until the election and qualification of a successor.~~

SEC. 545. Section 7203 is added to the Business and Professions Code, to read:

7203. All regulations of the predecessor entity in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable until readopted, amended, or repealed. Any action by or against the predecessor entity shall not abate and shall continue in the name of the department.

SEC. 546. Section 7204 of the Business and Professions Code is repealed.

~~7204. The secretary shall keep all the records of the board and discharge such other duties as the board shall, from time to time, prescribe.~~

SEC. 547. Section 7204 is added to the Business and Professions Code, to read:

7204. A contract, lease, license, bond, or any other agreement to which the predecessor entity is a party shall continue in full force and effect and shall not be void or voidable as a result of the statute enacting this section.

SEC. 548. Section 7205 of the Business and Professions Code is repealed.

~~7205. Each member of the board, except the Director of Rehabilitation or his or her designated representative, shall receive a per diem and expenses as provided in Section 103. The Director of Rehabilitation or his or her designated representative shall receive the necessary expenses for each day actually spent in the performance of his or her duties.~~

SEC. 549. Section 7205 is added to the Business and Professions Code, to read:

7205. The unexpended balance of any funds available for use by the predecessor entity in carrying out any functions transferred to the department shall be made available for use by the

department. All books, documents, records, and property of the predecessor entity shall be transferred to the department.

SEC. 550. Section 7206 of the Business and Professions Code is repealed.

~~7206. The board shall hold regular meetings at least once a year at which an examination of applicants for certificates of registration shall be given. Special meetings shall be held upon request of a majority of the members of the board or upon the call of the president.~~

SEC. 551. Section 7206 is added to the Business and Professions Code, to read:

7206. (a) Any officer or employee of the predecessor entity who is performing a function transferred to the department and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the department pursuant to Section 19050.9 of the Government Code.

(b) The status, position, and rights of any officer or employee of the predecessor entity shall not be affected by the transfer and shall be retained by the person as an officer or employee of the department pursuant to the State Civil Service Act.

SEC. 552. Section 7207 of the Business and Professions Code is repealed.

~~7207. The board shall keep an accurate record of all its proceedings and of all its meetings.~~

SEC. 553. Section 7208 of the Business and Professions Code is amended to read:

7208. Pursuant to the provisions of the Administrative Procedure Act the ~~board~~ *department* may make such rules and regulations as are reasonably necessary to:

(a) Govern the procedure of the ~~board~~ *department with respect to the implementation of this chapter*.

(b) Govern the admission of applicants for examination for license to instruct blind persons in the use of guide dogs or to engage in the business of training, selling, hiring, or being in the business of supplying guide dogs for the blind.

(c) Govern the operation of schools which furnish guide dogs and train blind persons to use guide dogs.

(d) The reissuance of licenses.

(e) The reexamination of licensees.

SEC. 554. Section 7209 of the Business and Professions Code is amended to read:

7209. A person to be eligible for examination as an instructor must ~~(1)~~ *(a)* have a knowledge of the special problems of the blind and how to teach them, ~~(2)~~ *(b)* be able to demonstrate by actual blindfold test under traffic conditions his *or her* ability to train guide dogs with whom a blind person would be safe, ~~(3)~~ *(c)* be suited temperamentally and otherwise to instruct blind persons in the use of guide dogs, and ~~(4)~~ *(d)* have had at least three years' actual experience, comprising such number of hours as the ~~board~~ *department* may require, as an instructor, and have handled twenty-two (22) man-dog ~~units; or~~ *units, or* its equivalent, as determined by the ~~board~~ *department*, as an apprentice under a licensed instructor or under an instructor in a school satisfactory to the ~~board~~ *department*.

SEC. 555. Section 7210.5 of the Business and Professions Code is amended to read:

7210.5. It is unlawful to solicit funds for any person purporting to provide guide dogs for the blind in this state unless the person for whose benefit the solicitation is made holds a valid and unimpaired license issued by the ~~State Board of Guide Dogs for the Blind~~ *department*.

As used in this section "person" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

SEC. 556. Section 7210.6 of the Business and Professions Code is amended to read:

7210.6. A person desiring to establish a licensed guide dog school in this state, whose plan of operation has been approved by the ~~State Board of Guide Dogs for the Blind~~ *department* and who has furnished to the ~~board~~ *department* satisfactory evidence of financial responsibility, may secure from ~~such board~~ *the department* a license to solicit funds for the establishment of a guide dog training school for a period of one year, provided that:

(a) All funds raised during such one-year period shall be held in a trust and under the control of the trust department of a bank or trust company in this state.

(b) A record of the names and addresses of donors to the fund shall be kept by the fund raiser and furnished to the ~~board~~

department on demand with respect to all contributions in excess of ten dollars ($10) in funds or property from any one donor.

(c) In the event sufficient funds have not been raised within one year from the issuance of such license to finance establishment and initial operation of a guide dog school, all such funds, after payment of the costs of fund raising, and the option to buy land, the cost of which shall not exceed 20 percent of the funds raised, shall be repaid prorate to the donors thereof with respect to any donations in excess of ten dollars ($10) from any one donor.

(d) A fee of fifty dollars ($50) shall be paid upon issuance of a license for advance solicitation. In the discretion of the ~~board~~ *department*, for good cause shown by the applicant, the license for advance solicitation may be extended for one additional year. During the period of advance solicitation, no funds shall be expended for purposes other than the cost of fund raising and the cost of obtaining an option to buy or lease land for a school site.

SEC. 557. Section 7210.7 of the Business and Professions Code is amended to read:

7210.7. The ~~board~~ *department* may authorize schools licensed by the ~~board~~ *department* or instructors employed by those schools to provide home training in the use of guide dogs.

If a school desires to provide home training in the use of guide dogs, it shall apply to the ~~board~~ *department* and provide the ~~board~~ *department* with a written plan and procedure for conducting that home training, which shall be approved by the ~~board~~ *department* prior to conducting any home training.

Schools providing home training in the use of guide dogs shall, annually, provide the ~~board~~ *department* with the names and addresses of those persons who are receiving home training and shall include those persons who have received home training from the school subsequent to the last report filed with the ~~board~~ *department*.

The guide dog user, as a condition of receiving home training, shall have completed a formal in-residence training program from a school licensed by the ~~board~~ *department* to provide guide dog training, or from a school recognized by another state to provide guide dog training.

The requirement for a formal in-residence training program from a school licensed by the ~~board~~ *department* may be waived by the

school when that requirement imposes an undue hardship on the guide dog user.

Home training, as provided in this section, shall consist of not less than 20 hours of training.

This section shall only apply to those schools that are licensed by the ~~board~~ *department* to furnish guide dogs and to train persons to use guide dogs, who desire to provide home training in the use of guide dogs, and who apply to the ~~board~~ *department* for approval to provide that home training.

SEC. 558. Section 7211 of the Business and Professions Code is amended to read:

7211. (a) Each applicant for an instructor's license shall file an application with the ~~secretary of the board~~ *department* at least 10 days before the date fixed for examination, and shall pay to the ~~secretary~~ *department* at the time of filing an application the sum of two hundred fifty dollars ($250). No license shall be granted until the applicant has satisfactorily completed the examination prescribed by the ~~board~~ *department* and has shown that he or she is equipped by a school or by equivalent facilities satisfactory to the ~~board~~ *department*. An annual fee of one hundred dollars ($100) shall be required for the renewal of a license.

(b) All fees received under this chapter shall be deposited in the Guide Dogs for the Blind Fund.

SEC. 559. Section 7211.1 of the Business and Professions Code is amended to read:

7211.1. (a) As a condition of renewal of an instructor's license, the instructor shall provide proof of completion of not less than 8 hours of continuing education. The ~~board~~ *department* shall determine the form of proof.

(b) Continuing education shall meet the criteria specified in Section 166, and shall be in one or more of the following subject matter areas:

(1) Blindness and mobility.

(2) Health issues relating to blindness.

(3) Instructing blind persons.

(4) Care and training of dogs.

(c) This section shall apply to renewal of instructors' licenses which expire on or after June 30, 1996.

SEC. 560. Section 7211.2 of the Business and Professions Code is amended to read:

7211.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The ~~board~~ *department* may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his *or her* plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 561. Section 7211.9 of the Business and Professions Code is amended to read:

7211.9. The ~~board~~ *department* may suspend or revoke a license issued under this chapter if it determines that the licensee or its manager or responsible directing officer has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement thereof.

(b) Violated any provision of this chapter.

(c) Violated any rule of the ~~board~~ *department* adopted pursuant to the authority contained in this chapter.

(d) Been convicted of a felony or of any crime involving moral turpitude, or has been convicted of any offense involving cruelty to animals. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(e) Committed any act which would be grounds for denial of a license.

SEC. 562. Section 7214 of the Business and Professions Code is amended to read:

7214. The license of a school shall be automatically suspended if there is no licensed instructor in charge of the training of guide dogs and in the instruction of persons in the use of guide dogs. Upon a showing satisfactory to the ~~board~~ *department* that an emergency exists a temporary instructor's permit may be granted under conditions prescribed by the ~~board~~ *department*.

SEC. 563. Section 7215.5 of the Business and Professions Code is amended to read:

7215.5. During the first year following the successful training of each person-dog unit, and release from a guide dog training

school of the trained person supplied with a guide dog, the school may retain title to the trained dog. During this probationary year, the school may enter into a contractual agreement with the user of the dog describing the conditions under which the user may maintain the status of legal custodian of the dog. During the probationary year, the school, acting in what it deems to be the best interest of the user, the dog, or the public, may temporarily or permanently resume possession of the dog.

Within 15 days after the end of each calendar year, each licensed school shall report to the ~~board~~ *department* the following:

(1) The number of dog ownership titles transferred to dog users pursuant to this section during the calendar year.

(2) The number of title recoveries and repossessions made by the school pursuant to this section during the calendar year.

(3) The number, type, and amount of charges assessed for followup training, instruction, veterinary, or boarding services, pursuant to this section, which make a distinction between users who have acquired title to their dogs and users who have not acquired title.

(4) The views of the governing entity of the school as to any problems or concerns relative to compliance with the provisions of this section, along with recommendations for appropriate legislative or administrative changes commensurate with the purposes of this section.

Immediately upon completion of the first year following the successful training referred to above, if the training school and the dog user are mutually satisfied with the operation of the person-dog unit, title to the dog shall be transferred to the blind user if the user so desires. Transfer of title shall be evidenced by a transfer of title agreement executed by both parties thereto. The school may retain an option to recover title and possession to the guide dog subject to conditions described in the transfer of title agreement. These conditions may include, but are not limited to, the following:

(1) If in the school's opinion, the guide dog is being misused or neglected or mistreated by its blind user.

(2) If the blind person to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another blind person.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

The guide dog school shall make no distinction as to the quality or extent of followup or supportive services available to its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make this distinction when assessing reasonable and appropriate charges for followup training, instruction, veterinary, or boarding services.

No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.

SEC. 564. Section 7215.6 of the Business and Professions Code is amended to read:

7215.6. (a) In order to provide a procedure for the resolution of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of a guide dog, in all cases except those in which the dog user is the unconditional legal owner of the dog, the following arbitration procedure shall be established as a pilot project.

(b) This procedure establishes an arbitration panel for the settlement of disputes between a guide dog user and a licensed guide dog school regarding the continued use of a guide dog by the user in all cases except those in which the dog user is the unconditional legal owner of the dog. The disputes that may be subject to this procedure concern differences between the user and school over whether or not a guide dog should continue to be used, differences between the user and school regarding the treatment of a dog by the user, and differences over whether or not a user should continue to have custody of a dog pending investigation of charges of abuse. It specifically does not address issues such as admissions to schools, training practices, or other issues relating to school standards. The ~~board~~ *department* and its representative are not parties to any dispute described in this section.

(c) The licensed guide dog schools in California and the ~~board~~ *department* shall provide to guide dog users graduating from guide

dog programs in these schools a new avenue for the resolution of disputes that involve continued use of a guide dog, or the actual physical custody of a guide dog. Guide dog users who are dissatisfied with decisions of schools regarding continued use of guide dogs may appeal to the ~~board~~ *department* to convene an arbitration panel composed of all of the following:

(1) One person designated by the guide dog user.

(2) One person designated by the licensed guide dog school.

(3) A representative of the ~~board~~ *department* who shall coordinate the activities of the panel and serve as chair.

(d) If the guide dog user or guide dog school wishes to utilize the arbitration panel, this must be stated in writing to the ~~board~~ *department*. The findings and decision of the arbitration panel shall be final and binding. By voluntarily agreeing to having a dispute resolved by the arbitration panel and subject to its procedures, each party to the dispute shall waive any right for subsequent judicial review.

(e) A licensed guide dog school that fails to comply with any provision of this section shall automatically be subject to a penalty of two hundred fifty dollars ($250) per day for each day in which a violation occurs. The penalty shall be paid to the ~~board~~ *department*. The license of a guide dog school shall not be renewed until all penalties have been paid.

The fine shall be assessed without advance hearing, but the licensee may apply to the board for a hearing on the issue of whether the fine should be modified or set aside. This application shall be in writing and shall be received by the ~~board~~ *department* within 30 days after service of notice of the fine. Upon receipt of this written request, the board shall set the matter for hearing within 60 days.

(f) As a general rule, custody of the guide dog shall remain with the guide dog user pending a resolution by the arbitration panel. In circumstances where the immediate health and safety of the guide dog user or guide dog is threatened, the licensed school may take custody of the dog at once. However, if the dog is removed from the user's custody without the user's concurrence, the school shall provide to the ~~board~~ *department* the evidence that caused this action to be taken at once and without fail; and within five calendar days ~~a special committee of two members of the board~~ *the director*

of the department shall make a determination regarding custody of the dog pending hearing by the arbitration panel.

(g) The arbitration panel shall decide the best means to determine final resolution in each case. This shall include, but is not limited to, a hearing of the matter before the arbitration panel at the request of either party to the dispute, an opportunity for each party in the dispute to make presentations before the arbitration panel, examination of the written record, or any other inquiry as will best reveal the facts of the disputes. In any case, the panel shall make its findings and complete its examination within 45 calendar days of the date of filing the request for arbitration, and a decision shall be rendered within 10 calendar days of the examination.

All arbitration hearings shall be held at sites convenient to the parties and with a view to minimizing costs. Each party to the arbitration shall bear its own costs, except that the arbitration panel, by unanimous agreement, may modify this arrangement.

(h) The ~~board~~ *department* may study the effectiveness of the arbitration panel pilot project in expediting resolution and reducing conflict in disputes between guide dog users and guide dog schools and may share its findings with the Legislature upon request.

(i) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which is enacted before January 1, 2012, deletes or extends that date.

SEC. 565. Section 7216 of the Business and Professions Code is amended to read:

7216. The ~~board~~ *department* may refuse to issue a license to a school or instructor if the applicant, if an individual, or any officer or partner, if the applicant is other than an individual, has committed any act or crime constituting grounds for denial of licensure under Section 480. Proceedings under this section shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the ~~board~~ *department* shall have all of the powers granted therein.

SEC. 566. Section 7217 of the Business and Professions Code is amended to read:

7217. (a) Within 60 days after the end of a calendar year or after the termination of the fiscal year of a school, there shall be furnished to the ~~board~~ *department* the following:

(1) A list of students accepted for training and those who have completed training.

(2) A list of the number of dogs trained.

(b) Within 180 days after the end of a calendar year, there shall be furnished to the ~~board~~ *department* an independent audit of the school's finances by a certified public accountant licensed by this state.

SEC. 567. 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~~ *Any reference to the "board" or "bureau" in this chapter, or to the State Board of Barbering and Cosmetology in any law or regulation, shall be deemed to refer to the department, or if appropriate, the director*.

(d) ~~"Executive officer" means the executive officer of the State Board of Barbering and Cosmetology~~ *Any reference to "executive officer" in this chapter, or to the executive officer of the State Board of Barbering and Cosmetology shall be deemed to refer to the director*.

SEC. 568. Section 7303 of the Business and Professions Code is amended to read:

7303. (a) ~~Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested~~ *The director is vested with the powers and duties of administering this chapter*.

~~(b) The board shall consist of nine members. Five members shall be public members and four members shall represent the professions. The Governor shall appoint three of the public members and the four professions members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions~~

~~members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.~~

~~(c) The board shall appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.~~

~~(d) The executive officer~~

(b) The director shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

~~(e)~~

(c) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 569. Section 7303.1 of the Business and Professions Code is amended to read:

7303.1. Protection of the public shall be the highest priority for the ~~Board of Barbering and Cosmetology~~ *department* in exercising its licensing, regulatory, and disciplinary functions *pursuant to this chapter*. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 570. Section 7303.2 of the Business and Professions Code is amended to read:

7303.2. The ~~board~~ *department* shall conduct the following studies and reviews, and shall report its findings and recommendations to the ~~department and the~~ Joint Committee on Boards, Commissions, and Consumer Protection no later than September 1, 2005:

(a) The ~~board~~ *department*, pursuant to Section 139 and in conjunction with the Office of Examination Resources of the department, shall review the 1600 hour training requirement for cosmetologists.

(b) The ~~board, in conjunction with the Office of Examination Resources of the~~ department~~,~~ shall evaluate the equivalency of the national exam.

(c) The ~~board~~ *department* shall conduct a study to assess the costs and benefits associated with requiring all applicants to submit fingerprint cards for background investigations.

(d) The ~~board~~ *department*, in coordination with the Department of Industrial Relations, shall review all components of the apprenticeship program, including, but not limited to, the following:

(1) Apprenticeship curriculum requirements.

(2) The standards for the preapprentice trainers, program sponsors, trainers, and placement establishments. The ~~board~~ *department* shall pay particular attention to ways to eliminate duplicative regulations.

(e) The ~~board~~ *department* shall review all components of the externship program. In addition to structural changes, the ~~board~~ *department* shall address the following:

(1) Whether the program should be eliminated.

(2) Whether the program should be available to all students, not just cosmetology students attending private schools.

(3) Whether the students should be paid.

(f) The ~~board~~ *department* shall assess the costs and benefits associated with same day licensing. If the ~~board~~ *department* determines that the benefits of same day licensing outweigh the costs, the ~~board~~ *department* shall immediately plan and implement safety measures to protect site staff and undispersed licenses.

(g) The ~~board, in conjunction with the Office of Examination Resources of the~~ department~~,~~ shall assess the validity of aggregate scoring for ~~board~~ applicants *pursuant to this chapter*.

SEC. 571. Section 7304 of the Business and Professions Code is repealed.

~~7304. The board shall be subject to review pursuant to Division 1.2 (commencing with Section 473).~~

SEC. 572. Section 7305 of the Business and Professions Code is repealed.

~~7305. The board shall elect officers annually from among its members, each of whom shall hold office for a term of one year. An officer shall not serve in a particular officer position for more than two terms.~~

SEC. 573. Section 7309 of the Business and Professions Code is repealed.

~~7309. The board shall establish a principal office, and may establish branch offices and examination facilities in the state as may be deemed necessary for the board to conduct its business.~~

SEC. 574. Section 7311 of the Business and Professions Code is repealed.

~~7311. The board shall adopt and use a common seal for the authentication of the board's records.~~

SEC. 575. Section 7312 of the Business and Professions Code is amended to read:

7312. The ~~board~~ *department* shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the ~~board~~ *department*, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

SEC. 576. Section 7313 of the Business and Professions Code is amended to read:

7313. (a) (1) To ensure compliance with the laws and regulations of this chapter, the ~~board's executive officer~~ *director* and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit during business hours or at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on

Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.

(2) The ~~board~~ *department* shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The ~~board~~ *department* or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The ~~board~~ *department* shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the ~~board~~ *department*, the ~~executive officer~~ *director* and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy of the notice of violation shall be provided to the Bureau for Private Postsecondary and Vocational Education.

~~(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.~~

SEC. 577. Section 7314 of the Business and Professions Code is amended to read:

7314. The ~~board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.~~

~~The board~~ *department* shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure.

SEC. 578. Section 7315 of the Business and Professions Code is repealed.

~~7315. A majority of the board may, in any meeting properly noticed in accordance with the Bagley-Keene Open Meeting Act, exercise all the duties and powers devolving upon the board.~~

SEC. 579. Section 7581.1 of the Business and Professions Code is repealed.

~~7581.1. The Governor shall appoint two private security disciplinary review committees, and may remove any member of a disciplinary review committee for misconduct, incompetency, or neglect of duty. One committee shall meet in the southern portion of the state and the other committee shall meet in the northern portion of the state.~~

~~Each disciplinary review committee shall consist of five members. Of the five members, one member shall be actively engaged in the business of a licensed private patrol operator, one member shall be actively engaged in the business of a firearm training facility, one member shall be actively engaged in the business of a registered security guard, and two members shall be public members. None of the public members shall be licensees or registrants or engaged in any business or profession in which any part of the fees, compensation, or revenue thereof, is derived from any licensee.~~

~~Each committee shall meet every 60 days or more or less frequently as may be required. The members shall be paid per diem pursuant to Section 103 and shall be reimbursed for actual travel expenses. The members shall be appointed for a term of four years.~~

SEC. 580. Section 7581.2 of the Business and Professions Code is amended to read:

7581.2. ~~Each disciplinary review committee~~ *The director* shall perform the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors, as licensed, certified, or registered by the bureau under this chapter, and

proprietary security officers, as registered by the bureau under Chapter 11.4 (commencing with Section 7574):

(a) Affirm, rescind, or modify all appealed decisions which concern administrative fines ~~assessed by the director~~.

(b) Affirm, rescind, or modify all appealed decisions which concern denials, revocations, or suspensions of a license, certificate, or registration except denials, revocations, or suspensions ~~ordered by the director~~ in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

SEC. 581. Section 7581.3 of the Business and Professions Code is amended to read:

7581.3. A private patrol operator, qualified manager of a private patrol operator, security guard, firearm qualification cardholder, firearm training facility, firearm training instructor, baton training facility, or baton training instructor may request ~~a review by a disciplinary review committee~~ *an administrative hearing* to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspension of a license, certificate, or registration ~~unless the denial, revocation, 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.

~~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, revocation, or suspension.~~

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

~~If the appellant disagrees with the decision made by a disciplinary review committee, he or she 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. A request for a hearing following a decision by a disciplinary review committee shall be by written notice to the bureau within 30 days following notice of the committee's decision.~~

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

SEC. 582. Section 7581.4 of the Business and Professions Code is repealed.

~~7581.4. Except in cases where licensees are required to comply with the provisions of Section 7581.3, where a hearing is held~~

~~under this chapter to determine whether an application for a license should be granted or to determine the qualifications of a licensee's manager, the proceedings 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 director shall have all of the powers granted therein.~~

SEC. 583. Section 7591.8 of the Business and Professions Code is amended to read:

7591.8. The director may automatically suspend a license, registration, or firearm qualification card if it is determined that the continued possession of such a license, registration, or card by the licensee, registrant, or card holder presents an undue hazard to public safety which may result in substantial injury to another.

A licensee, registrant, or firearm qualification card holder may request ~~a review by the Alarm Company Operator Disciplinary Review Committee~~ *an administrative hearing* as set forth in Section 7591.19 to appeal the suspension.

SEC. 584. Section 7591.9 of the Business and Professions Code is amended to read:

7591.9. If, upon investigation, the chief determines that an alarm company operator, a qualified manager, or an alarm agent is in violation of Sections 7597.1, 7597.2, 7597.3, 7597.5, 7597.6, 7598.51, 7598.53, 7599.32, 7599.33, 7599.34, 7599.36, 7599.37, 7599.38, 7599.39, 7599.40, 7599.41, 7599.42, 7599.43, 7599.44, 7599.45, 7599.46, 7599.47, 7599.48, 7599.49, 7599.50, 7599.51, 7599.52, 7599.53, 7599.54, 7599.55, 7599.58, and 7599.59, the director may issue a citation to, and fine, the alarm company operator, qualified manager, or alarm agent. The citation and fine assessment shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. The citation shall contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine. The amount of the fine for any single investigation or audit of an alarm company operator, a qualified manager, or an alarm agent shall not exceed two thousand five hundred dollars ($2,500).

A citation and fine assessment shall inform the alarm company operator, qualified manager, or alarm agent that if he or she desires ~~a review by the Alarm Company Operator Disciplinary Review~~

~~Committee~~ *an administrative hearing*, the ~~review~~ *hearing* shall be requested by written notice to the chief within 30 days of the issuance of the citation and assessment, as appropriate. If a ~~review~~ *hearing* is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. A ~~review~~ *hearing* shall be held pursuant to the provisions of Section 7591.19.

If the alarm company operator, qualified manager, or alarm agent fails to request a ~~review~~ *hearing* or fails to pay the assessed fine within 30 days of the assessment, the license, certificate, or registration shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

SEC. 585. Section 7591.10 of the Business and Professions Code is amended to read:

7591.10. (a) The director may deny a license, certificate, or registration regulated by this chapter on the grounds that the applicant has done any of the following:

(1) Knowingly made a false statement of fact required to be revealed in the application for a license.

(2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the ~~bureau~~ *director* is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or to substantially injure another.

(4) Done any act which if done by a licensee would be grounds for suspension or revocation of a license.

(5) Done any act without a license for which a license is required under this chapter.

(6) Been refused a license under this chapter or had a license revoked.

(7) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.

The ~~bureau~~ *director* may deny a license, certificate, or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license, certificate, or registration for which application has been made.

The denial of a license, certificate, or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires ~~a review by the disciplinary review committee the review~~ *an administrative hearing, the hearing* shall be requested within 30 days of the issuance of the denial. A ~~review~~ *hearing* shall be held pursuant to the provisions of Section 7591.19.

(b) Notwithstanding any other provision of this chapter, no person shall be denied a license, certificate, or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 7591.12.

SEC. 586. Section 7591.11 of the Business and Professions Code is amended to read:

7591.11. The ~~bureau~~ *director* shall deny a firearms permit, pursuant to Section 12021 of the Penal Code, to any licensee, qualified manager, or alarm agent who has been convicted of a felony, unless the felony conviction has been reduced pursuant to Section 17 of the Penal Code or the person has been pardoned by the Governor. The licensee, qualified manager, or alarm agent shall not have a right to ~~a review or~~ a hearing if the denial is made pursuant to this section.

SEC. 587. Section 7591.17 of the Business and Professions Code is repealed.

~~7591.17. The Governor shall appoint an Alarm Company Operator Disciplinary Review Committee.~~

~~The disciplinary review committee shall consist of three members who are actively engaged in business as licensed alarm company operators and two public members. The committee shall meet~~

~~every 60 days, or more or less frequently as may be required. The members shall be paid per diem pursuant to Section 103 and shall be reimbursed for actual travel expenses. The members shall serve at the pleasure of the Governor.~~

SEC. 588. Section 7591.18 of the Business and Professions Code is repealed.

~~7591.18. The Alarm Company Operator Disciplinary Review Committee shall perform the following functions:~~

~~(a) Affirm, rescind, or modify all appealed decisions concerning administrative fines assessed by the bureau against alarm company operators or their employees.~~

~~(b) Affirm, rescind, or modify all appealed decisions concerning denial, revocation, or suspension of licenses, and certificates, registrations, or permits issued by the bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.~~

SEC. 589. 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 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)~~

(a) 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)~~

(b) 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~~ *assessment of an administrative fine, or denial, suspension, or revocation by the director, chief, or bureau*.

SEC. 590. Section 7591.20 of the Business and Professions Code is repealed.

~~7591.20. The disciplinary review committee shall be provided all evidence used by the bureau in reaching its decision prior to hearing an appeal.~~

SEC. 591. Section 7801 of the Business and Professions Code is amended to read:

7801. ~~"Board," as used in this chapter, means the Board for Geologists and Geophysicists.~~ Any reference in ~~any law or regulation~~ *this chapter to the "board" or* to the State Board of Registration for Geologists and Geophysicists *in any law or regulation* shall be deemed to refer to the ~~Board for Geologists and Geophysicists~~ *Director of Consumer Affairs*.

SEC. 592. Section 7810 of the Business and Professions Code is repealed.

~~7810. The Board for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. Except as provided in this section, the board shall consist of eight members, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.~~

~~Each member shall hold office until the appointment and qualification of the member's successor or until one year has~~

~~elapsed from the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the remainder of the unexpired term.~~

~~Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired. No person shall serve as a member of the board for more than two consecutive terms.~~

~~The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occurred on or after January 1, 1983.~~

~~At the time the first vacancy is created by the expiration of the term of a public member appointed by the Governor, the board shall be reduced to consist of seven members, four of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist. Notwithstanding any other provision of law, the term of that member shall not be extended for any reason, except as provided in this section.~~

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SEC. 593. Section 7810.1 of the Business and Professions Code is amended to read:

7810.1. Protection of the public shall be the highest priority for the ~~Board for Geologists and Geophysicists~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 594. Section 7811 of the Business and Professions Code is repealed.

~~7811. Each member of the board shall be a citizen of the United States, shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding~~

~~his appointment. Each of the first appointed geologist members of the board shall have at least 12 years active experience and shall be a qualified geologist; each subsequent geologist member of the board shall be a geologist registered under this chapter. The first appointed geophysicist member shall have at least 12 years active experience and shall be a qualified geophysicist. Each subsequent geophysicist member shall be a geophysicist registered under this chapter. The board shall include not less than one engineering geologist and one petroleum geologist, as determined by the Governor.~~

SEC. 595. Section 7815 of the Business and Professions Code is repealed.

~~7815. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 596. Section 7815.5 of the Business and Professions Code is repealed.

~~7815.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 597. Section 7816 of the Business and Professions Code is repealed.

~~7816. The board shall meet annually and at such other times as it may determine.~~

SEC. 598. Section 7817 of the Business and Professions Code is repealed.

~~7817. Five members of the board shall constitute a quorum for the transaction of business; provided, however, that four members of the board shall constitute a quorum for the transaction of business when the board's membership is reduced to seven pursuant to Section 7810.~~

SEC. 599. Section 7818 of the Business and Professions Code is amended to read:

7818. The ~~board~~ *department*, pursuant to the provisions contained in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt,

amend, or repeal rules and regulations to carry out the provisions of this chapter.

SEC. 600. Section 7819 of the Business and Professions Code is amended to read:

7819. Except as otherwise provided by law, all records of the ~~board~~ *department relating to geologists and geophysicists* shall be open to inspection by the public during regular office hours.

SEC. 601. Section 7820 of the Business and Professions Code is repealed.

~~7820. The board shall have and use a seal bearing the name "State Board for Geologists and Geophysicists."~~

SEC. 602. Section 7821 of the Business and Professions Code is amended to read:

7821. The ~~board~~ *department* shall prepare annually a list of the names and addresses of every person who is registered by it and a list of every person whose registration has been suspended or revoked within the previous year. Such lists shall be mailed to the county clerks of each county and shall be held by him *or her* as a public record.

SEC. 603. Section 7822 of the Business and Professions Code is amended to read:

7822. The ~~board~~ *department* may, by regulation, provide for the division of the certification of registration into different specialties, including, but not limited to, petroleum, mining, and ~~ground water~~ *groundwater*, and may issue certificates in one or more of the specialties in which the applicant demonstrated proficiency. The ~~board~~ *department* shall provide such a certificate for those qualified in engineering geology.

SEC. 604. Section 7823 of the Business and Professions Code is amended to read:

7823. The ~~board~~ *director* shall have the authority to appoint committees as required or as deemed advisable to perform duties as the ~~board~~ *director* may direct ~~; provided, however, that the board shall not delegate any final decisionmaking authority to any committee that has as a member any person who is not a member of the board~~.

Membership on those committees is at the pleasure of the ~~board~~ *director*.

No member of a committee shall receive any other compensation than his or her necessary expenses, as approved by the ~~board~~

director, connected with the performance of his or her duties as a member of the committee.

SEC. 605. Section 7825 of the Business and Professions Code is amended to read:

7825. The ~~board~~ *department* shall establish relations with bodies which regulate the practice of geology and geophysics, or closely related geologic and geophysical disciplines, or which register geologists and geophysicists in the other states, and may establish relations with such bodies in other countries, for the purposes of working toward ~~(1)~~ *(a)* uniformly high professional standards and ~~(2)~~ *(b)* mutual recognition of registration.

SEC. 606. Section 7840 of the Business and Professions Code is amended to read:

7840. An application for registration as a geologist or for registration as a geophysicist shall be made to the ~~board~~ *department* on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter.

SEC. 607. Section 7850.5 of the Business and Professions Code is amended to read:

7850.5. An applicant who has passed the examination for a certified specialty geologist and has otherwise qualified under this chapter in the specialty, upon payment of the fee fixed by this chapter shall have a certificate issued to him or her as a certified specialty geologist.

A certificate of certified specialty geologist shall be signed by the ~~president and executive officer and issued under the seal of the board~~ *director*.

SEC. 608. Section 7850.6 of the Business and Professions Code is amended to read:

7850.6. An applicant who has passed the examination for a certified specialty geophysicist and has otherwise qualified under this chapter in the specialty, upon payment of the fee fixed by this chapter shall have a certificate issued to him or her as a certified specialty geophysicist. A certificate of certified specialty geophysicist shall be signed by the ~~president and executive officer and issued under the seal of the board~~ *director*.

SEC. 609. Section 7855 of the Business and Professions Code is amended to read:

7855. Any applicant who is denied registration or authorization shall, in writing, be so notified and informed of the reason therefor.

Within 30 days after receipt of notice, such applicant may make written request to the ~~board~~ *department* for a hearing which, if granted, shall be conducted as specified in Section 7861.

SEC. 610. Section 8000 of the Business and Professions Code is amended to read:

8000. ~~There is in the Department of Consumer Affairs a Court Reporters Board of California, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment~~ *Any reference to the "board" in this chapter, or to the Court Reporters Board of California in any law or regulation, shall be deemed to refer to the Department of Consumer Affairs or, if appropriate, the Director of Consumer Affairs*.

This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 611. Section 8001 of the Business and Professions Code is repealed.

~~8001. Appointment as a member of the board shall be for a term of four years. Members of the board shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~The Governor shall appoint one of the public members and the two certified members qualified as provided in Section 8000. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

SEC. 612. Section 8002 of the Business and Professions Code is repealed.

~~8002. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 613. Section 8003 of the Business and Professions Code is amended to read:

8003. ~~At each yearly meeting a chairman and vice-chairman shall be elected from the membership of the board. Three members shall constitute a quorum for the transaction of business.~~ The ~~board~~ *department* shall keep a complete record of all its proceedings, and all certificates issued, renewed, or revoked, together with a detailed statement of receipts and disbursements, *as they relate to this chapter*.

SEC. 614. Section 8004 of the Business and Professions Code is amended to read:

8004. The expenses of the ~~members of the board and the expenses of the board~~ *department* that are necessary to carry out the provisions of this chapter shall be paid from the fees collected under this chapter and such expenses shall not exceed the amount so collected.

SEC. 615. Section 8005 of the Business and Professions Code is repealed.

~~8005. The Court Reporters Board of California is charged with the executive functions necessary for effectuating the purposes of this chapter. It may appoint committees as it deems necessary or proper. The board may appoint, prescribe the duties, and fix the salary of an executive officer. Except as provided by Section 159.5, the board may also employ other employees as may be necessary, subject to civil service and other provisions of law.~~

~~This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 616. Section 8005.1 of the Business and Professions Code is amended to read:

8005.1. Protection of the public shall be the highest priority for the ~~Court Reporters Board of California~~ *department* in exercising its licensing, regulatory, and disciplinary functions *with respect to courtreporters*. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 617. Section 8008 of the Business and Professions Code is amended to read:

8008. The ~~board~~ *department* has the following powers and duties:

(a) To adopt a seal.

(b) ~~By affirmative vote of at least three members of the board, to~~ *To* suspend, revoke, or impose any other disciplinary action against a certificate for any cause specified in this chapter.

(c) To charge and collect all fees as provided for in this chapter.

(d) To require the renewal of all certificates.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

(g) To administer the Transcript Reimbursement Fund described in Section 8030.2.

SEC. 618. Section 8502 of the Business and Professions Code is repealed.

~~8502. "Board" refers to the Structural Pest Control Board.~~

SEC. 619. Section 8520 of the Business and Professions Code is amended to read:

8520. (a) ~~There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members~~ *Any reference to the "board" in this chapter, or to the Structural Pest Control Board in any law or regulation, shall be deemed to refer to the Department of Consumer Affairs or, if appropriate, the Director of Consumer Affairs*.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the ~~board~~ *department* is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the ~~board~~ *department*.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 620. Section 8520.1 of the Business and Professions Code is amended to read:

8520.1. Protection of the public shall be the highest priority for the ~~Structural Pest Control Board~~ *department* in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 621. Section 8521 of the Business and Professions Code is repealed.

~~8521. The board is composed of seven members, three of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, operators licensed under this chapter actively engaged in the business of pest control and who are residents of this state, and four public members who shall not be licentiates of the board.~~

SEC. 622. Section 8522 of the Business and Professions Code is repealed.

~~8522. Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.~~

~~Vacancies shall be filled by the appointing power for the unexpired term.~~

~~Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.~~

~~Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.~~

~~The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 8521. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~The Governor shall appoint the member who is a licentiate of the board provided at the 1983 portion of the 1983–84 Regular Session of the Legislature on or before January 15, 1984, and that member's term shall expire on January 15, 1988. Each appointment thereafter shall be for a four-year term expiring on January 15th.~~

SEC. 623. Section 8523 of the Business and Professions Code is repealed.

~~8523. The board shall organize and elect a president who shall serve for one year.~~

~~The board shall meet annually during the month of October.~~

~~Special meetings may be called at any time by the president or by any three members of the board, upon notice for such time and in such manner as the board may provide.~~

SEC. 624. Section 8524 of the Business and Professions Code is repealed.

~~8524. Four members of the board shall constitute a quorum for the transaction of business, for the performance of any duty, or the exercise of any power or authority of the board.~~

~~A vacancy on the board shall not impair the power of the remaining members to perform all duties and exercise all powers of the board providing the members remaining constitute a quorum.~~

SEC. 625. Section 8525 of the Business and Professions Code is amended to read:

8525. The ~~board, subject to the approval of the~~ director~~,~~ may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The ~~board~~ *department* shall also consult with the Department of Pesticide Regulation when developing or adopting regulations that may affect the Department of Pesticide Regulation or the county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

SEC. 626. Section 8526 of the Business and Professions Code is repealed.

~~8526. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

SEC. 627. Section 8527 of the Business and Professions Code is repealed.

~~8527. The board shall adopt and use a seal. The seal shall have the words "Structural Pest Control Board, State of California,"~~

~~and such other devices as the board may desire, engrossed thereon. The registrar shall have the care and custody of the seal.~~

SEC. 628. Section 8706 of the Business and Professions Code is amended to read:

8706. ~~"Board" refers to~~ *Any reference to the "board" in this chapter, or* the Board for Professional Engineers and Land Surveyors *in any law or regulation, shall be deemed to refer to the Department of Consumer Affairs, or if appropriate, to the Director of Consumer Affairs.*

SEC. 629. Section 8707 of the Business and Professions Code is repealed.

~~8707. "Executive officer" refers to the executive officer of the board.~~

SEC. 630. Section 8707 is added to the Business and Professions Code, to read:

8707. Any reference to "executive officer" shall be deemed to refer to the Director of Consumer Affairs.

SEC. 631. Section 8710 of the Business and Professions Code is amended to read:

8710. (a) The ~~Board for Professional Engineers and Land Surveyors~~ *department* is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) The ~~board~~ *department* may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the ~~board~~ *department* pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

(c) ~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~ The repeal of this section shall render ~~the board~~ *this chapter* subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 632. Section 8711 of the Business and Professions Code is amended to read:

8711. The ~~executive officer of the board~~ *department* shall keep a complete record of all applications for license and the ~~board's~~ *department's* action thereon.

SEC. 633. Section 8712 of the Business and Professions Code is amended to read:

8712. The ~~board~~ *department* shall compile and maintain, or may have compiled and maintained on its behalf, a register of all licensed land surveyors that includes the following information for each licensee:

(a) Name.

(b) Address of record.

(c) Type of branch license.

(d) License number.

(e) The date the license was issued.

(f) The date the license will expire.

SEC. 634. Section 8715 of the Business and Professions Code is amended to read:

8715. The ~~board~~ *director* may establish licensed land surveyor technical advisory committees to advise and assist the ~~board~~ *director* with respect to the following:

(1) The review and verification of applications for licensure.

(2) The evaluation and investigation of potential violations of this chapter.

(3) The amendment, repeal, adoption, or revision of board rules, regulations, policies, or procedures.

SEC. 635. Section 8715.1 of the Business and Professions Code is amended to read:

8715.1. Each member of each technical advisory committee shall be appointed by the ~~board~~ *director* and shall serve at the pleasure of the ~~board~~ *director*. Each committee shall be composed of no more than five members.

SEC. 636. Section 8720 of the Business and Professions Code is amended to read:

8720. The ~~board~~ *director*, when it deems necessary, may establish land surveyors review committees to hear all matters assigned by the ~~board~~ *director*, including, but not limited to, any contested case which is assigned by the ~~board~~ *director*. Each

committee shall exist so long as the ~~board~~ *director* deems that it is necessary.

SEC. 637. Section 8720.1 of the Business and Professions Code is amended to read:

8720.1. Each review committee shall consist of no fewer than three licensed land surveyors appointed by the ~~board~~ *director*. ~~Each member of a committee shall have the same qualifications and shall be subject to the same rules and regulations as if he were a member of the board.~~

SEC. 638. Section 8720.4 of the Business and Professions Code is amended to read:

8720.4. At the conclusion of any hearing which is conducted by a committee, the committee shall prepare a proposed decision, in such form that it may be adopted by the ~~board~~ *director* as the decision in the case, and shall transmit it to the ~~board~~ *director*. The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code.

SEC. 639. Section 8720.5 of the Business and Professions Code is amended to read:

8720.5. The ~~board~~ *director* may adopt, amend, or repeal, in accordance with the ~~provisions of Chapter~~ *Administrative Procedure Act (Chapter* 3.5 (commencing with Section 11340)~~,~~ *of* Part 1~~,~~ *of* Division 3, *of* Title 2 of the Government ~~Code~~ *Code)*, rules and regulations necessary to implement the provisions of this article.

SEC. 640. Section 8720.6 of the Business and Professions Code is amended to read:

8720.6. Each member of a land surveyors review committee or other ~~board-appointed~~ *director-appointed* committee and any ~~board-appointed~~ *director-appointed* representative of the ~~board~~ *director* shall be granted the same immunity as is granted to a public employee pursuant to Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

SEC. 641. Section 10147 of the Business and Professions Code is amended to read:

10147. (a) On or before January 1, 1993, the ~~Seismic Safety Commission~~ *Department of General Services* shall develop, adopt, and publish a Commercial Property Owner's Guide to Earthquake

Safety for distribution to licensees for purposes of Section 2079.9 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the ~~Seismic Safety Commission~~ *Department of General Services* shall consult with the Office of Emergency Services, the Division of Mines and Geology of the Department of Conservation, the Department of Real Estate, and other interested agencies and persons.

(c) The ~~commission~~ *Department of General Services* shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the ~~commission~~ *Department of General Services* may contract for the development and production of the guide. The ~~commission~~ *Department of General Services* shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The ~~commission~~ *Department of General Services* shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions in the state.

(2) Explanations of typical structural and nonstructural earthquake hazards.

(3) Recommendations for mitigating the hazards of an earthquake, including references and explanations of what constitutes "adequate wall anchorage" as defined in Section 8893.1 of the Government Code.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the ~~commission~~ *Department of General Services* shall confer with insurers and design professional associations.

(5) Notice of the obligation to post a sign as required by Section 8875.8 of the Government Code.

SEC. 642. Section 10149 of the Business and Professions Code is amended to read:

10149. (a) ~~On or before July 1, 1992, the Seismic Safety Commission~~ *The Department of General Services* shall develop, adopt, and publish a Homeowner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.8 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the ~~Seismic Safety Commission~~ *Department of General Services* shall consult with the Office of Emergency Services, the Division of Mines and Geology of the Department of Conservation, the Department of Real Estate, and other interested agencies and persons.

(c) The ~~commission~~ *Department of General Services* shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the ~~commission~~ *Department of General Services* may contract for the development and production of the guide. The ~~commission~~ *Department of General Services* shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The ~~commission~~ *Department of General Services* shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions for all areas of the state.

(2) Explanations of the related structural and nonstructural hazards.

(3) Recommendations for mitigating the hazards of an earthquake.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the ~~commission~~ *Department of General Services* shall confer with insurers and design professional associations.

SEC. 643. Section 12541 of the Business and Professions Code is repealed.

~~12541. (a) The department shall establish a seven-member advisory committee consisting of the following members:~~

~~(1) Two members representing registered service agencies.~~

~~(2) Two members representing county sealers or directors of weights and measures.~~

~~(3) One member representing device manufacturers.~~

~~(4) One member representing industry clients of service agencies.~~

~~(5) One member representing the general public.~~

~~(b) Except as provided in subdivision (c), the term of office of the members of the committee is three years. Vacancies shall be filled by the department for any unexpired term.~~

~~(c) Initial appointments to the committee shall be made as follows:~~

~~(1) One representative of registered service agencies, and one representative of county sealers or directors of weights and measures shall be appointed for one year.~~

~~(2) One representative of device manufacturers, one representative of county sealers or directors of weights and measures, and one representative of industry clients of service agencies shall be appointed for two years.~~

~~(3) One representative of registered service agencies, and one representative of the general public shall be appointed for three years.~~

~~(d) The committee shall be advisory to the department in all matters concerning the registration of service agencies.~~

SEC. 644. Section 19164 of the Business and Professions Code is amended to read:

19164. The bureau may, by regulation, establish insulation material standards governing the quality of all insulation material sold or installed within this state, including those properties that affect the safety and thermal performance of insulation material during application and in the use intended. The standards shall specify the initial performance of the insulation material and the performance expected during the design life of the insulation material. Until the bureau has adopted these ~~regulations~~ *regulations*, the regulations of the Energy Resources Conservation and Development Commission in effect on the effective date of this section relating to those standards shall remain in full force and effect. However, wherever those regulations specify that the commission shall perform an act, the bureau instead shall perform the act.

Prior to establishing the standards and procedures required by this chapter, the bureau shall conduct at least two public hearings, and shall invite the Energy Resources Conservation and Development Commission, the State Fire Marshal, manufacturers, distributors, and licensed installers of insulation materials, and appropriate members of the public to participate in the hearings. Immediately upon adoption of the standards and procedures, the bureau shall provide a copy of the standards to the Energy Resources Conservation and Development Commission, and the ~~Contractors' State License Board~~ *Department of Consumer Services*. Within 30 days after receipt of the bureau's standards, the ~~Contractors' State License Board~~ *Department of Consumer Services* shall notify all state licensed contractors who install insulation of the standards.

Insulation standards adopted by the bureau, pursuant to this section, and by the Energy Resources Conservation and Development Commission, pursuant to Section 25402 of the Public Resources Code, which are building standards as defined in Section 25488.5 shall be submitted to the ~~State Building Standards Commission~~ *Department of General Services* for approval pursuant to, and are governed by, the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. The building standards adopted by the bureau and published in the State Building Standards Code shall comply with, and be enforced as provided in, this section.

SEC. 645. Section 56.30 of the Civil Code is amended to read:

56.30. The disclosure and use of the following medical information shall not be subject to the limitations of this part:

(a) (Mental health and developmental disabilities) Information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) of the Welfare and Institutions Code.

(b) (Public social services) Information and records that are subject to Sections 10850, 14124.1, and 14124.2 of the Welfare and Institutions Code.

(c) (State health services, communicable diseases, developmental disabilities) Information and records maintained pursuant to former Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of the Health and Safety Code and pursuant to the Communicable Disease Prevention and Control Act (subdivision (a) of Section 27 of the Health and Safety Code).

(d) (Licensing and statistics) Information and records maintained pursuant to Division 2 (commencing with Section 1200) and Part 1 (commencing with Section 102100) of Division 102 of the Health and Safety Code; pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code; and pursuant to Section 8608, 8817, or 8909 of the Family Code.

(e) (Medical survey, workers' safety) Information and records acquired and maintained or disclosed pursuant to Sections 1380 and 1382 of the Health and Safety Code and pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

(f) (Industrial accidents) Information and records acquired, maintained, or disclosed pursuant to Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), and Division 4.7 (commencing with Section 6200) of the Labor Code.

(g) (Law enforcement) Information and records maintained by a health facility which are sought by a law enforcement agency under Chapter 3.5 (commencing with Section 1543) of Title 12 of Part 2 of the Penal Code.

(h) (Investigations of employment accident or illness) Information and records sought as part of an investigation of an on-the-job accident or illness pursuant to Division 5 (commencing with Section 6300) of the Labor Code or pursuant to Section 105200 of the Health and Safety Code.

(i) (Alcohol or drug abuse) Information and records subject to the federal alcohol and drug abuse regulations (Part 2 (commencing with Section 2.1) of subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations) or to Section 11977 of the Health and Safety Code dealing with narcotic and drug abuse.

(j) (Patient discharge data) Nothing in this part shall be construed to limit, expand, or otherwise affect the authority of the California Health Facilities Commission to collect patient discharge information from health facilities.

(k) Medical information and records disclosed to, and their use by, the Insurance Commissioner, the Director of the Department of Managed Health Care, the Division of Industrial Accidents, the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, the Department of Insurance, or the Department of Managed Health Care.

SEC. 646. Section 2079.11 of the Civil Code is amended to read:

2079.11. (a) Except as provided in subdivision (b), to the extent permitted by law, the consumer information publications referred to in this article, including, but not limited to, the information booklets described in Section 10084.1 of the Business and Professions Code and Section 25402.9 of the Public Resources Code, shall be in the public domain and freely available.

(b) Notwithstanding subdivision (a), the ~~Seismic Safety Commission's~~ *Department of General Services'* Homeowner's Guide to Earthquake Safety, published pursuant to Section 10149 of the Business and Professions Code, shall be made available to the public at cost and for reproduction at no cost to any vendor who wishes to publish the guide, provided the vendor agrees to submit the guide to the commission prior to publication for content approval.

SEC. 647. Section 1245.210 of the Code of Civil Procedure is amended to read:

1245.210. As used in this article, "governing body" means:

(a) In the case of a taking by a local public entity, the legislative body of the local public entity.

(b) In the case of a taking by the Sacramento and San Joaquin Drainage District, the ~~State Reclamation Board~~ *Department of Water Resources*.

(c) In the case of a taking by the State Public Works Board pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), the State Public Works Board.

(d) In the case of a taking by the Department of Fish and Game pursuant to Section 1348 of the Fish and Game Code, the Wildlife Conservation Board.

(e) In the case of a taking by the Department of Transportation (other than a taking pursuant to Section 21633 of the Public

Utilities Code or Section 30100 of the Streets and Highways Code), the California Transportation Commission.

(f) In the case of a taking by the Department of Transportation pursuant to Section 21633 of the Public Utilities Code, the California Transportation Commission.

(g) In the case of a taking by the Department of Transportation pursuant to Section 30100 of the Streets and Highways Code, the California Transportation Commission.

(h) In the case of a taking by the Department of Water Resources, the ~~California Water Commission~~ *Department of Water Resources*.

(i) In the case of a taking by the University of California, the Regents of the University of California.

(j) In the case of a taking by the State Lands Commission, the State Lands Commission.

(k) In the case of a taking by Hastings College of Law, the board of directors of that college.

SEC. 648. Section 1245.250 of the Code of Civil Procedure is amended to read:

1245.250. (a) Except as otherwise provided by statute, a resolution of necessity adopted by the governing body of the public entity pursuant to this article conclusively establishes the matters referred to in Section 1240.030.

(b) If the taking is by a local public entity, other than a sanitary district exercising the powers of a county water district pursuant to Section 6512.7 of the Health and Safety Code, and the property is electric, gas, or water public utility property, the resolution of necessity creates a rebuttable presumption that the matters referred to in Section 1240.030 are true. This presumption is a presumption affecting the burden of proof.

(c) If the taking is by a local public entity and the property described in the resolution is not located entirely within the boundaries of the local public entity, the resolution of necessity creates a presumption that the matters referred to in Section 1240.030 are true. This presumption is a presumption affecting the burden of producing evidence.

(d) For the purposes of subdivision (b), a taking by the ~~State Reclamation Board~~ *Department of Water Resources* for the Sacramento and San Joaquin Drainage District is not a taking by a local public entity.

SEC. 649. Section 1330 of the Education Code is amended to read:

1330. (a) The Superintendent ~~of Public Instruction~~ or the Board of Governors of the California Community Colleges, as appropriate, shall represent, and exercise rights of appeal to the ~~Unemployment Insurance~~ *Employment and Benefits* Appeals Board under this part on behalf of school employers held under Section 1336 of the Unemployment Insurance Code.

(b) The Superintendent ~~of Public Instruction~~ or Board of Governors of the California Community Colleges is hereby authorized to obtain pertinent personnel records and data from any school employer and to act as an agent individually or collectively for school employers in matters pertaining to unemployment insurance.

(c) Each county superintendent of schools shall have the responsibility of establishing, coordinating, and maintaining, either directly or by contract, an unemployment insurance management system for each school employer participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code. A management system shall include general administration, claims management, appointment of hearing representatives, representation of school employers at hearings, and other duties related to the unemployment insurance program in their jurisdiction. These duties and responsibilities may be delegated to any school district, community college district, another county superintendent of schools, or any combination of these entities, including programs under joint powers agreements for the purpose of consolidation for economy and employment of specialists, including the services of a regional data center operated by a county superintendent of schools or the data-processing services of a school district or a community college district. School employers not participating in the School Employees Fund shall be responsible for the development and maintenance of their own unemployment insurance management system required by this subdivision.

(d) Each school employer shall perform pursuant to the type of financing elected, and shall, as required, respond to the Superintendent ~~of Public Instruction~~ or Board of Governors of the California Community Colleges and the county superintendent of

schools or designated agency as soon as possible, in no case later than 48 hours, to inquiries made on behalf of the county superintendent or the Superintendent ~~of Public Instruction~~ or Board of Governors of the California Community Colleges in reference to any aspect of eligibility, notice of claim or appeal under the unemployment insurance program. Each county superintendent or agent thereof who is responsible for administering the unemployment insurance program shall be responsible for timely responses to any inquiry by the administrator, Superintendent ~~of Public Instruction, State~~ Treasurer, Controller, or other officer or person responsible for disbursements from the School Employees Fund in the State Treasury as established by Section 822 of the Unemployment Insurance Code, or the Unemployment Fund in the State Treasury. Any school employer ~~which~~ *that* fails to pay the contributions, interest, charges or levies within the time required shall be liable for interest on moneys due at the rate of 1 percent per month or fraction thereof from and after the date of delinquency until paid. If the school employer fails, without good cause, to pay any sums required within the time required, a penalty of 10 percent of the amount noticed, billed or required shall be made by the administrator. The administrator may for good cause waive all or a portion of interest and penalty.

(e) The administrator of the School Employees Fund shall, from available interest earnings, pursuant to investments authorized by Section 822 of the Unemployment Insurance Code, transfer each year an amount equal to two dollars ($2) per covered employee for all districts participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, to the Superintendent ~~of Public Instruction~~ or the Board of Governors of the California Community Colleges, as appropriate. The Superintendent ~~of Public Instruction~~ or the Board of Governors of the California Community Colleges, as appropriate, shall apportion the two dollars ($2) per covered employee amount, less actual state administrative costs not to exceed five cents ($0.05) per covered employee, to the county superintendent of schools to cover costs of administering the unemployment insurance management system specified in subdivision (c).

(f) For the fiscal year 1978–79, and each fiscal year thereafter, the administrator of the School Employees Fund shall transfer the

funds by December 31 of each year based on the reports received from the Superintendent ~~of Public Instruction~~ or Board of Governors of the California Community Colleges by November 30 of each year. The reports shall be compiled from the number of covered employees as reported by the county superintendent of schools or community colleges, as appropriate, to the Superintendent ~~of Public Instruction~~ or the Board of Governors of the California Community Colleges by November 1 of each year, based on the covered employees employed in the preceding calendar month. The funds shall be apportioned by the Superintendent ~~of Public Instruction~~ and the Board of Governors of the California Community Colleges prior to January 31 of each year to the county superintendent of schools, less the actual administrative costs of the Superintendent ~~of Public Instruction~~ or the Board of Governors of the California Community Colleges, which shall not exceed an aggregate amount of five cents ($0.05) per covered employee. Funds for the cost of administering the unemployment insurance management system shall be apportioned to each county superintendent of schools according to the number of covered employees in each district reported by him or her, and shall be used only for the purpose of covering actual administrative costs incurred pursuant to Section 1330.

SEC. 650. Article 14 (commencing with Section 8286) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code is repealed.

SEC. 651. Section 8480 of the Education Code is repealed.

~~8480. The advisory committee established pursuant to Section 8286 shall perform all of the following functions with regard to this chapter:~~

~~(a) Assist the State Department of Education in developing and reviewing guidelines for the administration of this chapter.~~

~~(b) Serve in an advisory capacity to the Superintendent of Public Instruction and the Governor for program policy decisions.~~

~~(c) Review the implementation of this chapter.~~

SEC. 652. Section 11001 of the Education Code is amended to read:

11001. The Chancellor of the California State University shall establish an advisory committee to assist in selecting proposals to be funded and developing criteria for project evaluation. The committee shall be composed of the following members:

(a) Two certificated secondary school teachers, including at least one junior high or intermediate school teacher, appointed by the Superintendent of Public Instruction.

(b) Two certificated secondary school employees with responsibility for curriculum administration, appointed by the Superintendent of Public Instruction.

(c) One director of a regional consortium participating in the California Student Opportunity Access Program established pursuant to Chapter 113 of the Statutes of 1978, appointed by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(d) Two representatives of the California Community Colleges, to be appointed by the Board of Governors of the California Community Colleges, at least one of whom shall be a faculty member.

(e) Two representatives of the California State University, to be appointed by the Chancellor of the California State University, at least one of whom shall be a faculty member.

(f) Two representatives of the University of California, appointed by the President of the University of California, at least one of whom shall be a faculty member.

(g) One representative, appointed by the ~~Director of the California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*.

Faculty appointments to the advisory committee shall be made by the appropriate appointing authority through consultation with the faculty senate.

SEC. 653. Section 17250.40 of the Education Code is amended to read:

17250.40. The Superintendent ~~of Public Instruction~~ shall, in consultation with the Secretary for Education, the Department of General Services, the Energy Resources, Conservation and Development Commission, ~~Seismic Safety Commission,~~ school district representatives, and industry representatives, develop guidelines for design-build projects. The guidelines shall be developed within six months of the operative date of this chapter.

SEC. 654. Section 17280.5 of the Education Code is amended to read:

17280.5. (a) The ~~Seismic Safety Commission~~ *Department of General Services* shall convene an advisory committee that shall

include, but not be limited to, the State Architect, the State Fire Marshall, representatives from the major professional associations representing architects, engineers, and school facilities designers, and other interested parties.

(b) The advisory committee shall convene by August 19, 2002, and shall study and report on whether a regulatory process may be developed that will allow the State Architect to determine whether a building not originally constructed in compliance with the Field Act, as defined in Section 17281, and its implementing regulations either meets, or can be retrofitted to meet, the equivalent pupil safety performance standard as a building constructed according to the Field Act and its implementing regulations. If the advisory committee finds that the regulatory process may be developed, the advisory committee, shall include within its report the facts and rationale supporting the finding and the essential steps required in that regulatory process. The advisory committee shall report its findings to the ~~Seismic Safety Commission~~ *Department of General Services* by December 31, 2002.

(c) By January 8, 2003, and after reviewing the advisory committee's findings, the ~~Seismic Safety Commission~~ *Department of General Services* shall make a determination as to whether the regulatory process described in subdivision (b) may be developed, and shall report that determination to the Governor and the Legislature.

(d) If the ~~Seismic Safety Commission~~ *Department of General Services* determines that the regulatory process may be developed, the State Architect shall draft regulations to establish that regulatory process and to delineate the required retrofitting, deconstructive testing, continuous inspection procedures, and other necessary certifications and requirements that must be completed for a building to ensure it meets the equivalent pupil safety performance standard as a building constructed according to the Field Act and its implementing regulations. The State Architect shall promulgate the regulations on or before April 1, 2003, as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) Notwithstanding any law, a leased or purchased building that is determined to have the equivalent pupil safety performance standard as a building constructed according to the Field Act and implementing regulations is hereby deemed to be in full compliance with the safety requirements of a school building as set forth in Section 17280, and is hereby deemed to be in full compliance with the Field Act.

SEC. 655. Section 17317 of the Education Code is amended to read:

17317. (a) The Department of General Services shall~~, in consultation with the Seismic Safety Commission,~~ conduct an inventory of public school buildings that are concrete tilt-up school buildings and school buildings with nonwood frame walls that do not meet the minimum requirements of the 1976 Uniform Building Code. Priority shall be given to the school buildings identified in the act that added this section that are in the highest seismic risk zones in accordance with the seismic hazard maps of the Division of Mines and Geology of the Department of Conservation.

(b) The Department of General Services shall submit a report by December 31, 2001, to the Legislature and the Governor that summarizes the findings of the seismic safety inventory and makes recommendations about future actions that should be taken to address the problems found by the seismic safety inventory. The report shall not identify individual schoolsites on which inventoried school buildings are located.

SEC. 656. Section 19952 of the Education Code, as added by Section 1 of Chapter 49 of the Statutes of 1988, is amended to read:

19952. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the California Library Construction and Renovation Finance Committee created pursuant to Section 19972.

(b) "Fund" means the California Library Construction and Restoration Fund created pursuant to Section 19955.

(c) "Board" means the~~ California Library Construction and Renovation Board. The board includes the State Librarian, the Treasurer, the Director of Finance, the Assembly Member appointed by the Speaker of the Assembly, and the Senator appointed by the Senate Rules Committee~~*Board of Directors of*

the California Infrastructure and Economic Development Bank, created pursuant to Section 63021.5 of the Government Code.

~~Legislative members of the board shall meet with, and participate in, the work of the board to the extent that their participation is not incompatible with their duties as Members of the Legislature. For the purposes of this chapter, Members of the Legislature who are members of the board shall constitute a joint legislative committee on the subject matter of this chapter.~~

SEC. 657. Section 19972 of the Education Code is amended to read:

19972. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the California Library Construction and Renovation Finance Committee is hereby created. For purposes of this chapter, the California Library Construction and Renovation Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the State Librarian, the Director of Finance, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the ~~California Library Construction and Renovation Board~~*Board of Directors of the California Infrastructure and Economic Development Bank, created pursuant to Section 63021.5 of the Government Code*, is designated the "board."

SEC. 658. Section 19986 of the Education Code is amended to read:

19986. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the California Library Construction and Renovation Finance Committee established pursuant to Section 19972.

(b) "Fund" means the California Public Library Construction and Renovation Fund *created pursuant to Section 19955*.

(c) "Board" means the ~~California Public Library Construction and Renovation Board. This board is comprised of the State Librarian, the Treasurer, the Director of Finance, an Assembly Member appointed by the Speaker of the Assembly, a Senator appointed by the Senate Rules Committee, and a member appointed~~

~~by the Governor~~*Board of Directors of the California Infrastructure and Economic Development Bank, created pursuant to Section 63021.5 of the Government Code*.

~~Legislative members of the board shall meet with, and participate in, the work of the board to the extent that their participation is not incompatible with their duties as Members of the Legislature. For the purposes of this chapter, Members of the Legislature who are members of the board shall constitute a joint legislative committee on the subject matter of this chapter.~~

SEC. 659. Section 20002 of the Education Code is amended to read:

20002. (a) For purposes of this chapter, the California Library Construction and Renovation Finance Committee established pursuant to Section 19972 is the "committee" as that term is used in the State General Obligation Bond Law.

(b) For purposes of the State General Obligation Bond Law, the ~~California Public Library Construction and Renovation Board established pursuant to subdivision (c) of Section 19986~~*Board of Directors of the California Infrastructure and Economic Development Bank, created pursuant to Section 63021.5 of the Government Code* is designated the "board."

SEC. 660. Section 32282 of the Education Code is amended to read:

32282. (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) *of Chapter 2* of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A district or county office may work with the Office of Emergency Services and the ~~Seismic Safety Commission~~ *Department of General Services* to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The district or county office shall cooperate with the public agency in furnishing and maintaining the services as the district or county office may deem necessary to meet the needs of the community.

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 *of Division 4 of Title 2*.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing “gang-related

apparel," if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For the purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(G) Procedures for safe ingress and egress of pupils, parents, and school employees to and from school.

(H) A safe and orderly environment conducive to learning at the school.

(I) The rules and procedures on school discipline adopted pursuant to Sections 35291 and 35291.5.

~~(J) Hate crime reporting procedures pursuant to Chapter 1.2 (commencing with Section 628) of Title 15 of Part 1 of the Penal Code.~~

(b) It is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

(c) Grants to assist schools in implementing their comprehensive school safety plan shall be made available through the partnership as authorized by Section 32285.

(d) Each schoolsite council or school safety planning committee in developing and updating a comprehensive school safety plan shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

(e) The comprehensive school safety plan may be evaluated and amended, as needed, by the school safety planning committee, but shall be evaluated at least once a year, to ensure that the comprehensive school safety plan is properly implemented. An

updated file of all safety-related plans and materials shall be readily available for inspection by the public.

(f) The comprehensive school safety plan, as written and updated by the schoolsite council or school safety planning committee, shall be submitted for approval under subdivision (a) of Section 32288.

SEC. 661. Section 35296 of the Education Code is amended to read:

35296. The governing board of each private school shall establish an earthquake emergency procedure system in every private school building under its jurisdiction having an occupant capacity of 50 or more pupils or more than one classroom. A governing board may work with the Office of Emergency Services and the ~~Seismic Safety Commission~~ *Department of General Services* to develop and establish the earthquake emergency procedure systems.

SEC. 662. Section 49116 of the Education Code is amended to read:

49116. (a) While school is in session, an employer shall not employ a minor 14 or 15 years of age for more than three hours in any day, nor more than 18 hours in any week, nor during school hours, except that a minor enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program may be employed for no more than 23 hours, any portion of which may be during school hours.

(b) An employer shall not employ a minor 16 or 17 years of age for more than four hours in any day ~~in~~ *on* which that minor is required by law to attend school for 240 minutes or more, except as follows:

(1) The minor is employed in personnel attendance occupations, as defined in the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* Minimum Wage Order No. 15, school-approved work experience, or cooperative vocational education programs.

(2) The minor has been issued a permit to work pursuant to subdivision (c) of Section 49112 and is employed in accordance with the provisions of that permit.

(c) If evidence is shown, to the satisfaction of the authority issuing the permit to work, that the schoolwork or the health of

the minor is being impaired by the employment, that authority may revoke the permit.

(d) Nothing in this section shall apply to any minor employed to deliver newspapers to consumers.

SEC. 663. Section 66021.2 of the Education Code is amended to read:

66021.2. Consistent with the state's historic commitment to provide educational opportunity by ensuring both student access to and selection of an institution of higher education for students with financial need, the long-term policy of the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42 shall be as follows:

(a) ~~Commencing with the 2001–02 academic year and every year thereafter, an~~ *An* applicant for a Cal Grant A or B award shall receive an award that is not in excess of the financial need amount determined by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* pursuant to Section 69432.9 if he or she complies with all of the following requirements:

(1) Demonstrates financial need under the criteria adopted pursuant to Section 69432.9.

(2) Attains a grade point average, as defined in Section 69432.7, meeting the requirements of Chapter 1.7 (commencing with Section 69430) of Part 42.

(3) Complies with each of the eligibility criteria applicable to the type of Cal Grant award for which he or she is applying.

(b) (1) The maximum Cal Grant A award for a student attending the University of California or the California State University shall equal the mandatory systemwide fees in each of those segments.

(2) The maximum Cal Grant B award for a student to which this subdivision is applicable shall equal the mandatory systemwide fees in the segment attended by the student, except for community college students who receive waivers from the Board of Governors of the California Community Colleges, plus the access award calculated as specified in Article 3 (commencing with Section 69435) of Chapter 1.7 of Part 42, except that in the first year of enrollment in a qualifying institution, the maximum award shall be only for the amount of the access award.

(c) The maximum Cal Grant awards for students attending nonpublic institutions shall be as follows:

(1) The maximum Cal Grant A award shall equal the tuition award level established in the Budget Act of 2000, or the amount as adjusted in subsequent annual budget acts.

(2) The maximum Cal Grant B award shall equal the amount of the tuition award as established in the Budget Act of 2000, or the amount as adjusted in subsequent annual budget acts, plus the amount of the access costs specified in Section 69435, except that, in the first year of enrollment in a qualifying institution, the maximum award shall be only for the amount of the access award.

(d) Commencing with the 2000–01 academic year, and each academic year thereafter, the Cal Grant C award shall be ~~utilized~~ *used* only for occupational or technical training.

(e) Commencing with the 2000–01 academic year, and each academic year thereafter, the Cal Grant T award shall be used only for one academic year of full-time attendance in a program of professional preparation that has been approved by the California Commission on Teacher Credentialing.

(f) An institution of higher education in this state that participates in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not reduce its level of per capita need-based institutional financial aid to undergraduate students, excluding loans, below the total level awarded in the 2000–01 academic year.

(g) The implementation of the policy set forth in this section shall maintain a balance between the state's policy goals of ensuring student access to and selection of an institution of higher education for students with financial need and academic merit.

(h) It is the policy of the State of California that the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program supplement the federal Pell Grant program.

(i) An award under the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not guarantee admission to an institution of higher education or admission to a specific campus or program.

SEC. 664. Section 66022 of the Education Code is amended to read:

66022. (a) The governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified in writing at the student's or

former student's last known address that he or she is in default on a loan or loans under the Federal Family Education Loan Program.

"Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances ~~where~~ *in which* the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to either the governing board of the community college district, the Trustees of the California State University, the Regents of the University of California, or the Board of Directors of the Hastings College of the Law, as appropriate, or to the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, or both the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there ~~exists~~ *is* a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

The adopted regulations shall not include the withholding of registration privileges.

(c) ~~When~~ *If* it has been determined that an individual is in default on a loan or loans specified in subdivision (a), the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) This section shall not impose any requirement upon the University of California or the Hastings College of the Law unless the Regents of the University of California or the Board of Directors of the Hastings College of the Law, respectively, by resolution, make this section applicable.

(e) Guarantors, or those who act as their agents or act under their control, who provide information to postsecondary educational institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law from action resulting from compliance with this section ~~when~~ *if* the action arises as a result of incorrect, misleading, or untimely information provided to the postsecondary educational institution by the guarantors, their agents, or those acting under the control of the guarantors.

SEC. 665. The heading of Chapter 11 (commencing with Section 66900) of Part 40 of Division 5 of Title 3 of the Education Code is amended to read:

CHAPTER 11. ~~CALIFORNIA POSTSECONDARY EDUCATION COMMISSION~~ *PLANNING AND COORDINATING FUNCTIONS OF THE OFFICE OF HIGHER EDUCATION AND FINANCIAL AID*

SEC. 666. Section 66900 of the Education Code is amended to read:

66900. (a) It is the intent of the Legislature that the ~~California Postsecondary Education Commission (CPEC)~~ *Office of Higher Education and Financial Aid* be responsible for coordinating public, independent, and private postsecondary education in California and providing independent policy analyses and recommendations to the Legislature and the Governor on postsecondary education issues. In this respect, the Legislature finds as follows:

(1) California, in its adoption of the 1960 Master Plan for Higher Education, established the Coordinating Council for Higher Education~~, the commission's predecessor~~ as the statewide coordinating and planning board for higher education.

(2) In 1973, the Legislature's Joint Committee on Higher Education reviewed the 1960 Master Plan for Higher Education and ultimately advanced a report that included recommendations for strengthening California's higher education plan. The committee's work resulted in the disestablishment of the Coordinating Council for Higher Education and the establishment of the California Postsecondary Education Commission, *the*

immediate predecessor of the Office of Higher Education and Financial Aid.

(3) Assembly Bill 770 (Chapter 1187 of the Statutes of 1973) strengthened the membership of the commission by having a majority of its members represent the general public. That bill also increased the commission's responsibilities with respect to advising the Legislature and the Governor on issues related to governance, operation, and financing of higher education in California.

(4) Since 1974, the commission has served as the state's independent planning and coordination agency for postsecondary education policy, responsible for providing analyses and recommendations to the Legislature and the Governor related to long-range planning for public postsecondary education and the state policy and programs involving independent and private postsecondary education sectors.

(5) In 1990, Senate Bill 1570 (Chapter 1587 of the Statutes of 1990) codified the commission's mission statement developed by the 1989 Joint Committee for the Review of the Master Plan for Higher Education.

(6) The commission has administered specifically designated federal programs and in July 1993, it was named the state's designated agency to administer the new federal state postsecondary review entity (SPRE).

(b) It is the intent of the Legislature that the ~~commission~~ *Office of Higher Education and Financial Aid* maintain the essential role ~~it plays~~ *heretofore played by the commission* in coordinating all sectors of postsecondary education, both public and private, given the size, scope, and complexity of California's higher education system.

(c) It is further the intent of the Legislature, as follows:

(1) That the education policy recommendations of the ~~commission~~ *Office of Higher Education and Financial Aid* shall be a primary consideration in developing state policy and funding for postsecondary education.

(2) That the ~~commission~~ *Office of Higher Education and Financial Aid* shall develop and maintain a data collection system capable of documenting the performance of postsecondary education institutions in meeting the post high school education and training needs of California's diverse population.

(3) That the ~~commission~~ *Office of Higher Education and Financial Aid*, as the state's planning and coordinating agency, shall ensure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and shall promote diversity, innovation, and responsiveness to student and societal needs.

(4) That the ~~commission~~ *Office of Higher Education and Financial Aid* shall encourage the participation of faculty members, students, administrators, and members of the general public in carrying out its duties and responsibilities.

SEC. 667. Section 66901 of the Education Code is repealed.

~~66901. There is hereby created the California Postsecondary Education Commission, which shall be advisory to the Governor, the Legislature, other appropriate governmental officials, and institutions of postsecondary education. The commission shall be composed of the following members:~~

~~(a) One representative of the Regents of the University of California designated by the regents, one representative of the Trustees of the California State University designated by the trustees, and one representative of the Board of Governors of the California Community Colleges designated by the board. Representatives of the regents, the trustees, and the board of governors shall be chosen from among the appointed members of their respective boards, but in no instance shall an ex officio member of a governing board serve on the commission.~~

~~(b) One representative of the independent California colleges and universities that are formed and operated as nonprofit corporations in this state and are accredited by a regional association that is recognized by the United States Department of Education. This member shall be appointed by the Governor from a list or lists submitted by an association or associations of those institutions.~~

~~(c) The chair or the designee of the chair of the Council for Private Postsecondary and Vocational Education.~~

~~(d) The President of the State Board of Education or his or her designee from among the other members of the board.~~

~~(e) Nine representatives of the general public appointed as follows: three by the Governor, three by the Senate Rules Committee, and three by the Speaker of the Assembly. It is the intent of the Legislature that the commission be broadly and~~

~~equitably representative of the general public in the appointment of its public members and that the appointing authorities, therefore, shall confer to assure that their combined appointments include adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the state.~~

~~(f) Two student representatives, each of whom shall be enrolled at a California postsecondary education institution at the time of appointment and during the term of service, except that a student member who graduates from an institution with no more than six months of his or her term remaining shall be permitted to serve for the remainder of the term. The Governor shall appoint the student members from persons nominated by the appropriate student organizations of each of the postsecondary education segments. For each student member of the commission, the appropriate student organization may submit a list of nominees. The list shall specify not less than three and not more than five nominees. The appropriate student organization for each segment shall be a composite group of at least five representative student government associations, as determined by the commission.~~

~~(g) The student member appointed to the commission shall not be enrolled in the same segment as the outgoing student member or in the same segment of the other sitting student member.~~

~~(h) No person who is employed by any institution of public or private postsecondary education shall be appointed to or serve on the commission, except that a person who is not a permanent, full-time employee and who has part-time teaching duties that do not exceed six hours per week may be appointed to and serve on the commission.~~

~~The commission members designated in subdivisions (a), (c), and (d) shall serve at the pleasure of their respective appointing authorities. The member designated in subdivision (b) shall serve a three-year term. The members designated in subdivision (e) shall each serve a six-year term. The members designated in subdivision (f) shall each serve a two-year term. The respective appointing authority may appoint an alternate for each member who may, during the member's absence, serve on the commission and vote on matters before the commission. When vacancies occur prior to expiration of terms, the respective appointing authority may appoint a member for the remainder of the term.~~

~~Any person appointed pursuant to this section may be reappointed to serve additional terms.~~

~~All terms subsequent to the initial appointments, which became effective on January 10, 1974, shall begin on January 1 of the year in which the respective terms are to start.~~

~~Any person appointed pursuant to this section who no longer has the position that made him or her eligible for appointment may nonetheless complete his or her term of office on the commission.~~

~~No person appointed pursuant to this section shall, with respect to any matter before the commission, vote for or on behalf of, or in any way exercise the vote of, any other member of the commission.~~

~~The commission shall meet as often as it deems necessary to carry out its duties and responsibilities.~~

~~Any member of the commission who in any calendar year misses more than one-third of the meetings of the full commission forfeits his or her office, thereby creating a vacancy.~~

~~The commission shall select a chair from among the members representing the general public. The chair shall hold office for a term of one year and may be selected to successive terms.~~

~~There is established an advisory committee to the commission and the director, consisting of the chief executive officers of each of the public segments, or their designees, the Superintendent of Public Instruction or his or her designee, and an executive officer from each of the groups of institutions designated in subdivisions (b) and (c) to be designated by the respective commission representative from these groups. Commission meeting agenda items and associated documents shall be provided to the committee in a timely manner for its consideration and comments.~~

~~The commission may appoint any subcommittees or advisory committees it deems necessary to advise the commission on matters of educational policy. The advisory committees may consist of commission members or nonmembers, or both, including students, faculty members, segmental representatives, governmental representatives, and representatives of the public.~~

~~The commission shall appoint and may remove a director in the manner hereafter specified. The director shall appoint persons to any staff positions the commission may authorize.~~

~~The commission shall prescribe rules for the transaction of its own affairs, subject, however, to all the following requirements and limitations:~~

~~(1) The votes of all representatives shall be recorded.~~

~~(2) Effective action shall require the affirmative vote of a majority of all the duly appointed members of the commission, not including vacant commission seats.~~

~~(3) The affirmative votes of two-thirds of all the duly appointed members of the commission, not including vacant commission seats, shall be necessary to the appointment of the director.~~

SEC. 668. Section 66902 of the Education Code is amended to read:

66902. The ~~commission~~ *Office of Higher Education and Financial Aid* shall have power to require the governing boards and the institutions of public postsecondary education to submit data on plans and programs, costs, selection and retention of students, enrollments, plant capacities and other matters pertinent to effective planning, policy development, articulation and coordination, and shall furnish information concerning ~~such~~ *those* matters to the Governor and to the Legislature as requested by them.

SEC. 669. Section 66903 of the Education Code is amended to read:

66903. The ~~commission~~ *Office of Higher Education and Financial Aid* has the following functions and responsibilities in its capacity as the statewide postsecondary education planning and coordinating agency and adviser to the Legislature and the Governor:

(a) It shall require the governing boards of the segments of public postsecondary education to develop and submit to the ~~commission~~ *Office of Higher Education and Financial Aid* institutional and systemwide long-range plans in a form determined by the ~~commission~~ *office* after consultation with the segments.

(b) It shall prepare a state plan for postsecondary education that shall integrate the planning efforts of the public segments with other pertinent plans. The ~~commission~~ *Office of Higher Education and Financial Aid* shall seek to resolve conflicts or inconsistencies among segmental plans in consultation with the segments. If these consultations are unsuccessful, the ~~commission~~ *Office of Higher Education and Financial Aid* shall report the unresolved issues to

the Legislature with recommendations for resolution. In developing the plan, the ~~commission~~ *Office of Higher Education and Financial Aid* shall consider at least the following factors:

(1) The need for, and location of, new facilities.

(2) The range and kinds of programs appropriate to each institution or system.

(3) The budgetary priorities of the institutions and systems of postsecondary education.

(4) The impact of various types and levels of student charges on students and on postsecondary education programs and institutions.

(5) The appropriate levels of state-funded student financial aid.

(6) The access and admission of students to postsecondary education.

(7) The educational programs and resources of independent and private postsecondary institutions.

(8) The provisions of this division differentiating the functions of the public systems of higher education.

(c) It shall update the plan periodically, as appropriate.

(d) It shall participate in appropriate stages of the executive and the legislative budget processes as requested by the executive and the legislative branches, and shall advise the executive and the legislative branches as to whether segmental programmatic budgetary requests are compatible with the state plan. It is not intended that the ~~commission~~ *Office of Higher Education and Financial Aid* hold independent budget hearings.

(e) It shall advise the Legislature and the Governor regarding the need for, and location of, new institutions and campuses of public higher education.

(f) It shall review proposals by the public segments for new programs, the priorities that guide them, and the degree of coordination with nearby public, independent, and private postsecondary educational institutions, and shall make recommendations regarding those proposals to the Legislature and the Governor.

(g) In consultation with the public segments, it shall establish a schedule for segmental review of selected educational programs, evaluate the program approval, review, and disestablishment processes of the segments, and report its findings and recommendations to the Legislature and the Governor.

(h) It shall serve as a stimulus to the segments and institutions of postsecondary education by projecting and identifying societal and educational needs and encouraging adaptability to change.

(i) It shall periodically collect or conduct, or both collect and conduct, studies of projected manpower supply and demand, in cooperation with appropriate state agencies, and disseminate the results of those studies to institutions of postsecondary education and to the public in order to improve the information base upon which student choices are made.

(j) It shall periodically review and make recommendations concerning the need for, and availability of, postsecondary programs for adult and continuing education.

(k) It shall develop criteria for evaluating the effectiveness of all aspects of postsecondary education.

(*l*) It shall maintain and update annually an inventory of all off-campus programs and facilities for education, research, and community services operated by public and independent institutions of postsecondary education.

(m) (1) It shall act as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies. It shall develop and maintain a comprehensive ~~data base~~ *database* that does all of the following:

(A) Ensures comparability of data from diverse sources.

(B) Supports longitudinal studies of individual students as they progress through the state's postsecondary educational institutions, based upon the ~~commission's~~ existing student ~~data base~~ *database of the Office of Higher Educational and Financial Aid* through the use of a unique student identifier.

(C) Is compatible with the California School Information System and the student information systems developed and maintained by the public segments of higher education, as appropriate.

(D) Provides Internet access to data, as appropriate, to the sectors of higher education.

(E) Provides each of the educational segments access to the data made available to the ~~commission~~ *Office of Higher Education and Financial Aid* for the purposes of the data base, in order to support, most efficiently and effectively, statewide, segmental, and individual campus educational research information needs.

(2) The ~~commission~~ *Office of Higher Education and Financial Aid*, in implementing paragraph (1), shall comply with the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) relating to the disclosure of personally identifiable information concerning students.

(3) The ~~commission~~ *Office of Higher Education and Financial Aid* may not make available any personally identifiable information received from a postsecondary educational institution concerning students for any regulatory purpose unless the institution has authorized the ~~commission~~ *office* to provide that information on behalf of the institution.

(4) The ~~commission~~ *Office of Higher Education and Financial Aid* shall provide 30-day notification to the chairpersons of the appropriate legislative policy and budget committees of the Legislature, to the Director of Finance, and to the Governor prior to making any significant changes to the student information contained in the ~~data base~~ *database*.

(n) It shall establish criteria for state support of new and existing programs, in consultation with the public segments, the Department of Finance, and the Joint Legislative Budget Committee.

(o) It shall comply with the appropriate provisions of the federal Education Amendments of 1972 (~~P.L.~~ *Public Law* 92-318), as specified in Section 67000.

(p) It shall consider the relationship among academic education and vocational education and job training programs, and shall actively consult with representatives of public and private education.

(q) It shall review all proposals for changes in eligibility pools for admission to public institutions and segments of postsecondary education and shall make recommendations to the Legislature, the Governor, and institutions of postsecondary education. In carrying out this subdivision, the ~~commission~~ *Office of Higher Education and Financial Aid* periodically shall conduct a study of the percentages of California public high school graduates estimated to be eligible for admission to the University of California and the California State University. The changes made to this subdivision during the 2001–02 Regular Session of the Legislature shall be implemented only during those fiscal years for which funding is provided for the purposes of those provisions in the annual Budget Act or in another measure.

(r) It shall report periodically to the Legislature and the Governor regarding the financial conditions of independent institutions, their enrollment and application figures, the number of student spaces available, and the respective cost of utilizing those spaces as compared to providing additional public spaces. The reports shall include recommendations concerning state policies and programs having a significant impact on independent institutions.

(s) Upon request of the Legislature or the Governor, it shall submit to the Legislature and the Governor a report on all matters so requested that are compatible with its role as the statewide postsecondary education planning and coordinating agency. Upon request of individual Members of the Legislature or personnel in the executive branch, the ~~commission~~ *Office of Higher Education and Financial Aid* shall submit information or a report on any matter to the extent that sufficient resources are available. From time to time, it also may submit to the Legislature and the Governor a report that contains recommendations as to necessary or desirable changes, if any, in the functions, policies, and programs of the several segments of public, independent, and private postsecondary education.

(t) In consultation with the public segments, it shall consider the development of facilities to be used by more than one segment of public higher education, commonly called "joint-use facilities." It shall recommend to the Legislature criteria and processes for different segments to utilize bond funds for these intersegmental, joint-use facilities.

(u) It may undertake other functions and responsibilities that are compatible with its role as the statewide postsecondary education planning and coordinating agency.

SEC. 670. Section 66903.2 of the Education Code is amended to read:

66903.2. The Office of Statewide Health Planning and Development shall consult with the ~~commission~~ *Office of Higher Education and Financial Aid* in the development by the office of its Health Manpower Plan and recommendations for meeting the needs in California for health science personnel. This consultation shall focus on whether health science education enrollment levels are adequate to meet the state's health manpower needs by category and specialty within each category.

SEC. 671. Section 66903.3 of the Education Code is amended to read:

66903.3. The ~~commission~~ *Executive Director of the Office of Higher Education and Financial Aid* may delegate to ~~the executive director~~ *an officer or employee of the office* any power, duty, purpose, function, or jurisdiction that the ~~commission~~ *executive director* may lawfully delegate, including the authority to enter into and sign contracts on behalf of the ~~commission. The executive director may redelegate any of those powers, duties, purposes, functions, or jurisdictions to his or her designee~~ *office*, unless by statute, or rule or regulation, the executive director is expressly required to act personally.

SEC. 672. Section 66904 of the Education Code is amended to read:

66904. It is the intent of the Legislature that sites for new institutions or branches of the University of California and the California State University, and the classes of off-campus centers as the ~~commission~~ *Office of Higher Education and Financial Aid* shall determine, shall not be authorized or acquired unless recommended by the ~~commission~~ *office*.

It is further the intent of the Legislature that California community colleges shall not receive state funds for acquisition of sites or construction of new institutions, branches, or off-campus centers unless recommended by the ~~commission~~ *Office of Higher Education and Financial Aid*. Acquisition or construction of nonstate-funded community college institutions, branches, and off-campus centers, and proposals for acquisition or construction shall be reported to, and may be reviewed and commented upon by, the ~~commission~~ *Office of Higher Education and Financial Aid*.

It is further the intent of the Legislature that existing or new institutions of public education, other than those described in subdivision (a) of Section 66010, shall not be authorized to offer instruction beyond the 14th grade level.

All proposals for new postsecondary educational programs shall be forwarded to the ~~commission~~ *Office of Higher Education and Financial Aid* for review together with supporting materials and documents that the ~~commission~~ *office* may specify. The ~~commission~~ *Office of Higher Education and Financial Aid* shall review the proposals within a reasonable length of time, which time shall not exceed 60 days following submission of the program

and the specified materials and documents. For the purposes of this section, "new postsecondary educational programs" means all proposals for new schools or colleges, all series of courses arranged in a scope or sequence leading to (1) a graduate or undergraduate degree, or (2) a certificate of a type defined by the ~~commission~~ *Office of Higher Education and Financial Aid*, ~~which~~ *that* have not appeared in a segment's or district's academic plan within the previous two years, and all proposals for new research institutes or centers ~~which~~ *that* have not appeared in a segment's or district's academic plan within the previous two years.

It is further the intent of the Legislature that the advice of the ~~commission~~ *Office of Higher Education and Financial Aid* be ~~utilized~~ *used* in reaching decisions on requests for funding new and continuing graduate and professional programs, enrollment levels, and capital outlay for existing and new campuses, colleges, and off-campus centers.

SEC. 673. Section 66905 of the Education Code is amended to read:

66905. It is the intent of the Legislature that the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid* annually review and fix the salary of its director according to a methodology established by the ~~commission~~ *office*. This methodology shall take into consideration the salary of directors of coordinating boards for higher education in states with postsecondary education systems comparable to California's in size, complexity, and level of state expenditures. The comparison states shall include seven major industrial states, including Illinois, New Jersey, New York, Ohio, and Texas. The ~~commission~~ *Office of Higher Education and Financial Aid* shall notify the Chairperson of the Joint Legislative Budget Committee of this annual salary amount. Notwithstanding the provisions of Section 19825 of the Government Code, the salary shall become effective no sooner than 30 days after written notice of the salary is provided to the chairperson of the committee, or no sooner than a lesser time as the chairperson, or his or her designee, may determine.

SEC. 674. Section 66906 of the Education Code is repealed.

~~66906. Each member of the commission shall receive a stipend of fifty dollars ($50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or~~

~~subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission and, in addition, shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.~~

SEC. 675. Article 1.5 (commencing with Section 66910) is added to Chapter 11 of Part 40 of Division 5 of Title 3 of the Education Code, to read:

Article 1.5. Powers and Duties of the Office of Higher Education and Financial Aid

66910. The Office of Higher Education and Financial Aid is hereby created as a separate, independent entity in state government. The Office of Higher Education and Financial Aid shall be under the direction and control of an executive officer, who shall be appointed by, and serve at the pleasure of, the Governor, subject to confirmation by a vote of a majority of the membership of the Senate.

66910.1. (a) The Office of Higher Education and Financial Aid succeeds to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of each of the following entities, each of which shall no longer exist:

(1) The Loan Advisory Council.

(2) The Student Aid Commission.

(3) The California Postsecondary Education Commission.

(b) For purposes of this section, each of the entities listed in subdivision (a) shall be known as a predecessor entity.

66910.2. (a) All officers and employees of each predecessor entity who are serving in the state civil service, other than as temporary employees, shall be transferred to the Office of Higher Education and Financial Aid. The status, positions, and rights of those persons shall not be affected by the transfer, and shall be retained by those persons as officers and employees of the Office of Higher Education and Financial Aid, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(b) The Office of Higher Education and Financial Aid shall have possession and control of all records, papers, offices,

equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real and personal, connected with the administration of, or held for the benefit or use of, each predecessor entity.

(c) (1) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or in the performance of a duty, responsibility, or authorization transferred by the act that adds this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(2) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act that adds this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act that adds this section.

66910.3. No contract, lease, license, bond, or any other agreement to which a predecessor entity is a party shall be void or voidable by reason of the act that adds this section, but shall continue in full force and effect, with the Office of Higher Education and Financial Aid assuming all of the rights, obligations, liabilities, and duties of the predecessor entity. That assumption by the Office of Higher Education and Financial Aid shall not in any way affect the rights of any party to the contract, lease, license, bond, or other agreement. A bond issued by a predecessor entity shall become the indebtedness of the Office of Higher Education and Financial Aid. Any ongoing obligation or responsibility of the predecessor entity for managing or maintaining the issuance of bonds shall be transferred to the Office of Higher Education and Financial Aid without impairment to any security contained in the bond instrument.

66910.4. The unexpended balance of all funds available for use by the predecessor entity in carrying out any of the functions transferred to the Office of Higher Education and Financial Aid shall be available for use by the office.

SEC. 676. Section 67312 of the Education Code is amended to read:

67312. (a) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, for their respective systems, and the Regents of the University of California may, do the following:

(1) Work with the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid* and the Department of Finance to develop formulas or procedures for allocating funds authorized under this chapter.

(2) Adopt rules and regulations necessary to the operation of programs funded pursuant to this chapter.

(3) Maintain the present intersegmental efforts to work with the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid* and other interested parties, to coordinate the planning and development of programs for students with disabilities, including, but not necessarily limited to, the establishment of common definitions for students with disabilities and uniform formats for reports required under this chapter.

(4) Develop and implement, in consultation with students and staff, a system for evaluating state-funded programs and services for disabled students on each campus at least every five years. At a minimum, these systems shall provide for the gathering of outcome data, staff and student perceptions of program effectiveness, and data on the implementation of the program and physical accessibility requirements of Section 794 of Title 29 of the Federal Rehabilitation Act of 1973.

(b) Commencing in January 1990, and every two years thereafter, the Board of Governors of the California Community Colleges and the Trustees of the California State University shall, for their respective systems, and the Regents of the University of California may, submit a report to the Governor, the education policy committees of the Legislature, and the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid* on the evaluations developed pursuant to subdivision (a). These biennial reports shall also include a review on a campus-by-campus basis of the enrollment, retention, transition, and graduation rates of disabled students.

SEC. 677. Section 67382 of the Education Code is amended to read:

67382. (a) (1) On or before January 1, 2004, and every three years thereafter, the State Auditor shall report the results of an

audit of a sample of ~~not less~~ *no fewer* than six institutions of postsecondary education in California that receive federal student aid, to evaluate the accuracy of their statistics and the procedures used by the institutions to identify, gather, and track data for publishing, disseminating, and reporting accurate crime statistics in compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Sec. 1092 (f)(1) and (5)).

(2) The results of the annual audits described in paragraph (1) shall be submitted to the respective chairs of the Assembly ~~Higher Education~~ Committee *on Higher Education* and the Senate ~~Education~~ Committee *on Education*.

(b) The ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid* shall provide on its Internet Web site a link to the Internet Web site of each California institution of higher education that includes on that Web site the institution's criminal statistics information.

(c) The Legislature finds and declares that institutions of higher education that are subject to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Sec. 1092(f)(1) and (5)), should establish and publicize a policy that allows victims or witnesses to report crimes to the campus police department or to a specified campus security authority, on a voluntary, confidential, or anonymous basis.

SEC. 678. Section 68120.5 of the Education Code is amended to read:

68120.5. Any determination of eligibility pursuant to Section 68120 shall be consistent with any findings of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedures as in workers' compensation hearings, as to whether the death of the person described under subdivision (a) of that section was industrial.

SEC. 679. Section 69432.7 of the Education Code is amended to read:

69432.7. As used in this chapter, the following terms have the following meanings:

(a) An "academic year" is July 1 to June 30, inclusive. The starting date of a session shall determine the academic year in which it is included.

(b) "Access costs" means living expenses and expenses for transportation, supplies, and books.

(c) "Award year" means one academic year, or the equivalent, of attendance at a qualifying institution.

(d) "College grade point average" and "community college grade point average" mean a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree.

~~(e) "Commission" means the Student Aid Commission.~~

~~(f)~~

(e) "Enrollment status" means part-time status or full-time status.

(1) Part time, for purposes of Cal Grant eligibility, is defined as 6 to 11 semester units, inclusive, or the equivalent.

(2) Full time, for purposes of Cal Grant eligibility, is defined as 12 or more semester units or the equivalent.

~~(g)~~

(f) "Expected family contribution," with respect to an applicant, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.)) and applicable rules and regulations adopted by the ~~commission~~ *Office of Higher Education and Financial Aid*.

~~(h)~~

(g) "High school grade point average" means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, reserve officer training corps (ROTC), and remedial courses, and computed pursuant to regulations of the ~~commission~~ *Office of Higher Education and Financial Aid*. However, for high school graduates who apply after their senior year, "high school grade point average" includes senior year coursework.

~~(i)~~

(h) "Instructional program of not less than one academic year" means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester

units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

~~(j)~~

(i) "Instructional program of not less than two academic years" means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

~~(k)~~

(j) "Maximum household income and asset levels" means the applicable household income and household asset levels for participants in the Cal Grant Program, as defined and adopted in regulations by the ~~commission~~ *Office of Higher Education and Financial Aid* for the 2001–02 academic year, which shall be set pursuant to the following income and asset ceiling amounts:

CAL GRANT PROGRAM INCOME CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent and Independent students with dependents*		
Family Size		
Six or more	$74,100	$40,700
Five	$68,700	$37,700
Four	$64,100	$33,700
Three	$59,000	$30,300
Two	$57,600	$26,900
Independent		
Single, no dependents	$23,500	$23,500
Married	$26,900	$26,900

*Applies to independent students with dependents other than a spouse.

CAL GRANT PROGRAM ASSET CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent**	$49,600	$49,600
Independent	$23,600	$23,600

**Applies to independent students with dependents other than a spouse.

The ~~commission~~ *office* shall annually adjust the maximum household income and asset levels based on the percentage change in the cost of living within the meaning of paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution. Any applicant who qualifies to be considered under the simplified needs test established by federal law for student assistance shall be presumed to meet the asset level test under this section. Prior to disbursing any Cal Grant funds, a qualifying institution shall be obligated, under the terms of its institutional participation agreement with the ~~commission~~ *office*, to resolve any conflicts that may exist in the data the institution possesses relating to that individual.

(k) "Office" means the Office of Higher Education and Financial Aid.

(*l*) "Qualifying institution" means any of the following:

(1) Any California private or independent postsecondary educational institution that participates in the Pell Grant program and in at least two of the following federal campus-based student aid programs:

(A) Federal Work-Study.

(B) Perkins Loan Program.

(C) Supplemental Educational Opportunity Grant Program.

(2) Any nonprofit institution headquartered and operating in California that certifies to the ~~commission~~ *office* that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants, that demonstrates to the ~~commission~~ *office* that it has the administrative capacity to administer the funds, that is accredited by the Western Association of Schools and Colleges, and that meets any other state-required criteria adopted by regulation by the ~~commission~~ *office* in

consultation with the Department of Finance. A regionally accredited institution that was deemed qualified by the ~~commission~~ *office* to participate in the Cal Grant Program for the 2000–01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(3) Any California public postsecondary educational institution.

(m) "Satisfactory academic progress" means those criteria required by applicable federal standards published in Title 34 of the Code of Federal Regulations. The ~~commission~~ *office* may adopt regulations defining "satisfactory academic progress" in a manner that is consistent with those federal standards.

SEC. 680. Section 69432.8 of the Education Code is amended to read:

69432.8. The ~~commission~~ *office* may determine that an advance payment is essential to ensure that funds provided pursuant to this chapter to assist students to enroll in postsecondary education are available at the time students enroll. Upon making that determination, the ~~commission~~ *office* may, on the basis of institutional academic calendars, advance, per term to authorized postsecondary educational institutions, the funds for eligible students who have indicated they will attend those institutions, less an amount based on historical claim enrollment attrition information. Each institution shall disburse the funds in accordance with the provisions set forth in the institutional agreement between the ~~commission~~ *office* and the institution.

SEC. 681. Section 69432.9 of the Education Code is amended to read:

69432.9. (a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the ~~commission~~ *office*.

(b) Financial need shall be determined using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the ~~commission~~ *office*, and as established by Title IV of the Federal Higher Education Act of 1965 (20 U.S.C. Secs. 1070 et seq., as amended). The calculation of financial need shall be consistent with the ~~commission's~~ *office's* methodology for financial need for the 2000–01 academic year.

(1) "Expected family contribution," with respect to an applicant shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the

federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the ~~commission~~ *office*.

(2) Financial need is defined as the difference between the student's cost of attendance as determined by the ~~commission~~ *office* and the expected family contribution. The calculation of financial need shall be consistent with the ~~commission's~~ *office's* methodology for determining financial need for the 2000–01 academic year as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial Cal Grant A or Cal Grant C award shall be not less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars ($1,500) of financial need.

(B) The minimum financial need required for receipt of an initial Cal Grant B award shall be no less than seven hundred dollars ($700).

(c) The ~~commission~~ *office* shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average. The ~~commission~~ *office* shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the ~~commission~~ *office* or its designee. The ~~commission~~ *office* shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the ~~commission~~ *office*, by regulation, in lieu of submitting a qualifying grade point average. It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

SEC. 682. Section 69433 of the Education Code is amended to read:

69433. (a) (1) A Cal Grant Program award shall be based upon the financial need of the applicant, and shall not exceed the calculated financial need for any individual applicant. The

minimum level of financial need of each applicant shall be determined by the ~~commission~~ *office* pursuant to Section 69432.9. The ~~commission~~ *office* may provide renewal awards.

(2) A student attending a nonpublic institution shall receive a renewal award for tuition or fees, or both, in an amount not to exceed the maximum allowable award amount that was in effect in the year in which the student first received a new award.

(b) A Cal Grant award authorized pursuant to this chapter shall be defined as a full-time equivalent grant. An award to a part-time student shall be a fraction of a full-time grant, as determined by the ~~commission~~ *office*.

(c) (1) The ~~commission~~ *office* shall prescribe the use of standardized student financial aid applications for California. These applications shall be simple in nature, and collect common data elements required by the federal government and those elements needed to meet the objectives of state-funded and institutional financial aid programs.

(2) The applications prescribed in paragraph (1) shall be utilized for the Cal Grant Program, all other programs funded by the state or a public institution of postsecondary education (except for the Financial Assistance Program of the Board of Governors of the California Community Colleges authorized by Chapter 1118 of the Statutes of 1987, for which a simplified application designed for that sole purpose may be used), and all federal programs administered by a public postsecondary education institution.

(3) Supplemental application information may be ~~utilized~~ *used* if the information is essential to accomplishing the objectives of individual programs. All supplemental application information used for the purposes of ~~commission-administered~~ *office-administered* programs shall be subject to approval by the ~~commission~~ *office*, and applications shall be identical for programs with similar objectives, as determined by the ~~commission~~ *office*.

(4) Public postsecondary institutions are encouraged to use, but may decide whether to use, the standard applications for funds provided by private donors.

(5) The Legislature finds and declares that it is in the best interest of students that all postsecondary education institutions in California participating in federal and state-funded financial aid programs accept the standard applications prescribed by the ~~commission~~ *office*.

(d) Nothing in this chapter shall prevent an individual public postsecondary institution from processing, with its own staff and fiscal resources, the standard financial aid applications specified in subdivision (c) for student aid programs for which it has legal responsibility.

(e) The ~~commission~~ *office* may enter into contracts with a public agency or a private entity to improve the processing and distribution of grants, fellowships, and loans through the use of electronic networks and unified ~~data bases~~ *databases*.

SEC. 683. Section 69433.5 of the Education Code is amended to read:

69433.5. (a) Only a resident of California, as determined by the ~~commission~~ *office* pursuant to Part 41 (commencing with Section 68000), is eligible for an initial Cal Grant award. The recipient shall remain eligible for award renewal only if he or she is a California resident, in attendance, and making satisfactory academic progress at a qualifying institution, as determined by the ~~commission~~ *office*.

(b) A part-time student shall not be discriminated against in the selection of Cal Grant Program award recipients, and an award to a part-time student shall be approximately proportional to the time the student spends in the instructional program, as determined by the ~~commission~~ *office*. A first-time Cal Grant Program award recipient who is a part-time student shall be eligible for a full-time renewal award if he or she becomes a full-time student.

(c) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, or age.

(d) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in Section 69440, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of the amount equivalent to the award level for a total of four years of full-time attendance in an undergraduate program, except as provided in Section 69433.6.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69440.

(e) A Cal Grant Program award, except as provided in Section 69440, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study

leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(f) Commencing in 1999, the ~~commission shall~~ *office*, for students who accelerate college attendance, *shall* increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(g) The ~~commission~~ *office* shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not necessarily be limited to, surveys, newspaper articles, or attachments to communications from the ~~commission~~ *office* and any other published documents.

(h) The ~~commission may require~~ *office*, by the adoption of rules and regulations, *may require* the production of reports, accounting, documents, or other necessary statements from the award recipient and the college or university of attendance pertaining to the use or application of the award.

(i) A Cal Grant Program award may be ~~utilized~~ *used* only at a qualifying institution.

SEC. 684. Section 69433.7 of the Education Code is amended to read:

69433.7. The ~~commission~~ *office* shall adopt regulations necessary to implement this chapter. Notwithstanding any other provision of law, the ~~commission~~ *office* may adopt emergency regulations pursuant to Section 11346.1 of the Government Code in order to ensure that the program enacted by this chapter may function in its first academic year.

SEC. 685. Section 69434 of the Education Code is amended to read:

69434. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a Cal Grant A award shall be used only for tuition or student fees, or both, in a for-credit instructional program with a length of not less than two academic years. Each student who meets the Cal Grant A qualifications as set forth in

this article shall be guaranteed an award. The amount of any individual award is dependent on the cost of tuition or fees, or both, at the qualifying institution at which the student is enrolled. For each applicant, the award amount shall not exceed the amount of the calculated financial need.

(b) Pursuant to Section 66021.2, any California resident is entitled to a Cal Grant A award, and the ~~commission~~ *office* shall allocate that award, if all of the following criteria are met:

(1) The student has submitted, pursuant to Section 69432.9, a complete financial aid application, submitted or postmarked no later than March 2 of the academic year of high school graduation or its equivalent for the award year immediately following the academic year of high school graduation or its equivalent, or no later than March 2 of the academic year following high school graduation or its equivalent for the second award year following the year of high school graduation or its equivalent.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student attains a high school grade point average of at least 3.0 on a four-point scale.

(4) The student's household has an income and asset level that does not exceed the level for Cal Grant A recipients set forth in Section 69432.7.

(5) The student is pursuing an undergraduate academic program of not less than two academic years that is offered by a qualifying institution.

(6) The student is enrolled at least part time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(8) The student graduated from high school or its equivalent during or after the 2000–01 academic year.

(c) A student who meets the Cal Grant A Entitlement Program criteria specified in this article shall receive a Cal Grant A award for tuition or fees, or both, pursuant to Section 66021.2.

SEC. 686. Section 69434.5 of the Education Code is amended to read:

69434.5. An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in reserve for him or her for a period not to exceed two

academic years, except that the ~~commission~~ *office* may extend the period in which his or her award may be held in reserve for up to three academic years if, in the ~~commission's~~ *office's* judgment, the rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the student has encountered. The ~~commission~~ *office* shall, in this case, hold the award in reserve for the additional year. Upon receipt of a request to transfer the award to a tuition or fee charging qualifying institution, the individual shall be eligible to receive the Cal Grant A award previously held in reserve if, at the time of the request, he or she meets all of the requirements of this article. Upon receipt of the request, the ~~commission~~ *office* shall reassess the financial need of the award recipient. The ~~commission~~ *office* may prescribe the forms and procedures to be utilized for the purposes of this section. A recipient's years of eligibility for payment of benefits shall be based upon his or her grade level at the time the award is transferred to the tuition or fee charging qualifying institution.

SEC. 687. Section 69435 of the Education Code is amended to read:

69435. (a) (1) Commencing with the 2001–02 academic year, and each academic year thereafter, a Cal Grant B award shall be used only for tuition, student fees, and access costs in a for-credit instructional program that is not less than one academic year in length.

(2) The ~~commission~~ *office* shall award access grants in a student's first academic year. In subsequent years, the award shall include an additional amount to pay tuition or fees, or both, to attend college at a public or private four-year college or university or other qualifying institution for all Cal Grant B awards pursuant to paragraph (2) of subdivision (b) of Section 66021.2. In no event shall the total award in any year exceed the applicant's calculated financial need.

(3) Not more than 2 percent of new Cal Grant B recipients enrolling for the first time in an institution of postsecondary education shall be eligible for payments for tuition or fees, or both, in their first academic year of attendance. The ~~commission~~ *office* shall adopt regulations specifying the criteria used to determine which applicants, if any, receive both tuition and fees plus the access grant in the first year of enrollment. Priority shall be given

to students with the lowest expected family contribution pursuant to Section 69432.7 and the highest level of academic merit.

(b) An award for access costs under this article shall be in an annual amount not to exceed one thousand five hundred fifty-one dollars ($1,551). This amount may be adjusted in the annual Budget Act.

SEC. 688. Section 69435.3 of the Education Code is amended to read:

69435.3. (a) Any California resident is entitled to receive a Cal Grant B award, and the ~~commission~~ *office* shall allocate that award pursuant to Section 66021.2, if all of the following criteria are met:

(1) The student has submitted, pursuant to Section 69432.9, a complete financial aid application, submitted or postmarked no later than March 2 of the academic year of high school graduation or its equivalent for the award year immediately following the academic year of high school graduation or its equivalent, or no later than March 2 of the academic year following high school graduation or its equivalent for the second award year following the year of high school graduation or its equivalent.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student attains a high school grade point average of at least 2.0 on a four-point scale.

(4) The student's household has an income and asset level that does not exceed the level for Cal Grant B recipients as set forth in Section 69432.7.

(5) The student is pursuing an undergraduate academic program of not less than one academic year that is offered by a qualifying institution.

(6) The student is enrolled at least part-time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(8) The student graduated from high school or its equivalent during or after the 2000–01 academic year.

(b) A student who meets the Cal Grant B Entitlement Program criteria specified in this article shall receive a Cal Grant B award for access costs and tuition and fees pursuant to Section 66021.2.

SEC. 689. Section 69436 of the Education Code is amended to read:

69436. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a student who was not awarded a Cal Grant A or B award pursuant to Article 2 (commencing with Section 69434) or Article 3 (commencing with Section 69435) at the time of his or her high school graduation but, at the time of transfer from a California community college to a qualifying baccalaureate program, meets all of the criteria set forth in subdivision (b), shall be entitled to a Cal Grant A or B award.

(b) Any California resident transferring from a California community college to a qualifying institution that offers a baccalaureate degree is entitled to receive, and the ~~commission~~ *office* shall award, a Cal Grant A or B award depending on the eligibility determined pursuant to subdivision (c), if all of the following criteria are met:

(1) A complete official financial aid application has been submitted or postmarked pursuant to Section 69432.9, no later than the March 2 of the year immediately preceding the award year.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student has earned a community college grade point average of at least 2.4 on a 4.0 scale and is eligible to transfer to a qualifying institution that offers a baccalaureate degree.

(4) The student's household has an income and asset level not exceeding the limits set forth in Section 69432.7.

(5) The student is pursuing a baccalaureate degree that is offered by a qualifying institution.

(6) He or she is enrolled at least part time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(8) The student will not be 28 years of age or older by December 31 of the award year.

(9) The student graduated from a California high school or its equivalent during or after the 2000–01 academic year.

(c) The amount and type of the award pursuant to this article shall be determined as follows:

(1) For applicants with income and assets at or under the Cal Grant A limits, the award amount shall be the amount established pursuant to Article 2 (commencing with Section 69434).

(2) For applicants with income and assets at or under the Cal Grant B limits, the award amount shall be the amount established pursuant to Article 3 (commencing with Section 69435).

(d) (1) Commencing with the 2006–07 award year, a student meeting the requirements of paragraph (9) of subdivision (b) by means of high school graduation, rather than its equivalent, shall be required to have graduated from a California high school, unless that California resident graduated from a high school outside of California due solely to orders received from a branch of the United States Armed Forces by that student or by that student's parent or guardian that required that student to be outside of California at the time of high school graduation.

(2) For the purposes of this article, both of the following are exempt from the requirements of subdivision (e) of Section 69433.9 and paragraph (9) of subdivision (b) of this section:

(A) A student for whom a claim under this article was paid prior to December 1, 2005.

(B) A student for whom a claim under this article for the 2004–05 award year or the 2005–06 award year was or is paid on or after December 1, 2005, but no later than October 15, 2006.

(3) (A) Commencing with the 2006–07 award year, the ~~commission~~ *office* shall make preliminary awards to all applicants currently eligible for an award under this article. At the time an applicant receives a preliminary award, the ~~commission~~ *office* shall require that applicant to affirm, in writing, under penalty of perjury, that he or she meets the requirements set forth in subdivision (e) of Section 69433.9, paragraph (9) of subdivision (b) of this section, and paragraph (1) of this subdivision. The ~~commission~~ *office* shall notify each person who receives a preliminary award under this paragraph that his or her award is subject to an audit pursuant to subparagraph (B).

(B) The ~~commission~~ *office* shall select, at random, a minimum of 10 percent of the new and renewal awards made under subparagraph (A), and shall require, prior to the disbursement of Cal Grant funds to the affected postsecondary institution, that the institution verify that the recipient meets the requirements of subdivision (e) of Section 69433.9, paragraph (9) of subdivision

(b) of this section, and paragraph (1) of this subdivision. An award that is audited under this paragraph and found to be valid shall not be subject to a subsequent audit.

(C) Pursuant to Section 69517.5, the ~~commission~~ *office* shall seek repayment of any and all funds found to be improperly disbursed under this article.

(D) On or before November 1 of each year, the ~~commission~~ *office* shall submit a report to the Legislature and the Governor including, but not necessarily limited to, both of the following:

(i) The number of awards made under this article in the preceding 12 months.

(ii) The number of new and renewal awards selected, in the preceding 12 months, for verification under subparagraph (B), and the results of that verification with respect to students at the University of California, at the California State University, at independent nonprofit institutions, and at independent for-profit institutions.

SEC. 690. Section 69437 of the Education Code is amended to read:

69437. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, there shall be established the Competitive Cal Grant A and B award program for students who did not receive a Cal Grant A or B entitlement award pursuant to Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), or Article 4 (commencing with Section 69436). Awards made under this section are not entitlements. The submission of an application by a student under this section shall not entitle that student to an award. The selection of students under this article shall be determined pursuant to subdivision (c) and other relevant criteria established by the ~~commission~~ *office*.

(b) A total of 22,500 Cal Grant A and B awards shall be granted annually under this article on a competitive basis for applicants who meet the general eligibility criteria established in Article 1 (commencing with Section 69430) and the priorities established by the ~~commission~~ *office* pursuant to subdivision (c).

(1) Fifty percent of the awards referenced in this subdivision are available to all students, including California community college students, who meet the financial need and academic requirements established pursuant to this article. A student

enrolling at a qualifying baccalaureate degree granting institution shall apply by the March 2 deadline. A California community college student is eligible to apply at the March 2 or the September 2 deadline.

(2) Fifty percent of the awards referenced in this subdivision are reserved for students who will be enrolled at a California community college. The ~~commission~~ *office* shall establish a second application deadline of September 2 for community college students to apply for these awards effective with the fall term or semester of the 2001–02 academic year.

(3) If any awards are not distributed pursuant to paragraphs (1) and (2) upon initial allocation of the awards under this article, the ~~commission~~ *office* shall make awards to as many eligible students as possible, beginning with the students with the lowest expected family contribution and highest academic merit, consistent with the criteria adopted by the ~~commission~~ *office* pursuant to subdivision (c), as practicable without exceeding an annual cumulative total of 22,500 awards.

(c) (1) On or before February 1, 2001, acting pursuant to a public hearing process that is consistent with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), the ~~commission~~ *office* shall establish selection criteria for Cal Grant A and B awards under the competitive program that give special consideration to disadvantaged students, taking into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper a student's access to, and ability to persist in, postsecondary education programs.

(2) Additional consideration shall be given to each of the following:

(A) Students who graduated from high school or its equivalent prior to the 2000–01 academic year. This subparagraph shall not be applicable after the 2004–05 academic year.

(B) Students pursuing Cal Grant B awards who reestablish their grade point averages.

(C) Students who did not receive awards pursuant to Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), or Article 4 (commencing with Section 69436).

(d) All other students who meet the eligibility requirements pursuant to Article 1 (commencing with Section 69430) are eligible to compete for an award pursuant to this article.

SEC. 691. Section 69437.3 of the Education Code is amended to read:

69437.3. (a) The ~~commission~~ *office* shall utilize the standardized student financial aid application described in Section 69432.9.

(b) An official financial aid application shall be submitted pursuant to Section 69432.9, submitted or postmarked no later than March 2, or September 2 for students enrolled at a community college.

(c) A student shall be enrolled at least part-time.

SEC. 692. Section 69437.6 of the Education Code is amended to read:

69437.6. (a) An applicant competing for an award under this article shall meet all the requirements of Article 1 (commencing with Section 69430).

(b) To compete for a competitive Cal Grant A award, an applicant shall, at a minimum, meet all of the requirements of Article 2 (commencing with Section 69434), with the exception of paragraphs (1) and (8) of subdivision (b) of Section 69434. However, in lieu of meeting the grade point average requirement set forth in paragraph (3) of subdivision (b) of Section 69434, an applicant may submit a community college or college grade point average of at least 2.4 on a 4.0 scale.

(c) To compete for a competitive Cal Grant B award, an applicant shall, at a minimum, meet all of the requirements of Article 3 (commencing with Section 69435), with the exception of paragraphs (1) and (8) of subdivision (a) of Section 69435.3. However, in lieu of meeting the grade point average requirements of paragraph (3) of subdivision (a) of Section 69435.3, a student may reestablish his or her grade point average by completing at least 16 cumulative units of credit for academic coursework at an accredited California community college, as defined by the ~~commission~~ *office*, by regulation, with at least a 2.0 community college grade point average.

(d) To compete for a competitive California Community College Transfer Cal Grant Award, an applicant shall, at a minimum, meet the requirements of Article 4 (commencing with Section 69436),

with the exception of paragraphs (8) and (9) of subdivision (b) of Section 69436.

(e) All other competitors shall, at a minimum, comply with all of the requirements of subdivision (b) of Section 69432.9.

(f) An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in reserve for him or her for a period not to exceed two academic years, except that the ~~commission~~ *office* may extend the period in which his or her award may be held in reserve for up to three academic years if, in the ~~commission's~~ *office's* judgment, the rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the student has encountered. The ~~commission~~ *office* shall, in this case, hold the award in reserve for the additional year. Upon receipt of a request to transfer the award to a tuition or fee charging qualifying institution, the individual shall be eligible to receive the Cal Grant A award previously held in reserve if, at the time of the request, he or she meets all of the requirements of this article. Upon receipt of the request, the ~~commission~~ *office* shall reassess the financial need of the award recipient. The ~~commission~~ *office* may prescribe the forms and procedures to be utilized for the purposes of this section. A recipient's years of eligibility for payment of benefits shall be based upon his or her grade level at the time the award is transferred to the tuition or fee charging qualifying institution. Any award so held in reserve shall only be counted once toward the 22,500 awards authorized by this article.

SEC. 693. Section 69437.7 of the Education Code is amended to read:

69437.7. After two award cycles, the ~~commission~~ *office* shall review the competitive grant program and its priorities to gain a better understanding of early participation patterns and to determine the initial level of program effectiveness. The ~~commission~~ *office* shall report these findings to the Legislature and the Governor by December 31, 2003, and each year thereafter.

SEC. 694. Section 69439 of the Education Code is amended to read:

69439. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a Cal Grant C award shall be ~~utilized~~ *used* only for occupational or technical training in a course of not less than four months. There shall be the same number of Cal Grant

C awards each year as were made in the 2000–01 fiscal year. The maximum award amount and the total amount of funding shall be determined each year in the annual Budget Act.

(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~~ *office*.

(c) The ~~commission~~ *office* may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

(d) The Cal Grant C recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the ~~commission~~ *office*. In no case shall the grants exceed two calendar years.

(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~~ *office* shall take into account other state and federal programs available to the applicant.

(f) Cal Grant C awards shall be awarded in areas of occupational or technical training as determined by the ~~commission~~ *office* after consultation with appropriate state and federal agencies.

SEC. 695. Section 69440 of the Education Code is amended to read:

69440. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, Cal Grant T awards shall be used only for tuition and student fees for a maximum of one academic year of full-time attendance in a program of professional preparation that has been approved by the California Commission on Teacher Credentialing. The maximum award amount, and the total amount of funding, shall be determined each year in the annual Budget Act. As a condition of receiving a Cal Grant T award, a recipient shall teach for one year in a high-priority school, as defined in paragraph (3) of subdivision (c) of Section 44510, for each two thousand dollar ($2,000) incentive provided through the Cal Grant T Program, for a period not to exceed four years. Any recipient who fails to meet his or her teaching obligation shall repay the Cal Grant T award.

(b) The ~~commission~~ *office* shall allocate Cal Grant T awards using academic criteria or criteria related to past performance similar to that used in awarding Cal Grant A awards for the 2000–01 academic year.

SEC. 696. Section 69506.5 of the Education Code is amended to read:

69506.5. Notwithstanding Section 69506, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may, whenever it is determined to be in the best interest of the state, develop and adopt regulations that modify the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking any state-funded financial assistance or the federal definition for establishing the dependent and independent status of students seeking any state-funded financial assistance. It is the Legislature's intent that these regulations promote consistency between federal and state standards, encourage the maximum contribution from parents while being sensitive to individual student financial and personal circumstances, and encourage a simple financial aid application process.

(a) The regulations developed pursuant to this section shall be adopted as ~~Student Aid Commission~~ regulations *of the Office of Higher Education and Financial Aid* in accordance with ~~the provisions of~~ Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Prior to adopting or amending regulations pursuant to this section, the ~~commission~~ *Office of Higher Education and Financial Aid* shall conduct, and make public, a full analysis ~~which~~ *that* includes at least an examination and explanation of the cost of the change, the effect on student applicant and recipient eligibility and award levels, and the effects of implementing the criteria on those programs administered by the ~~commission~~ *office*.

(c) Not later than July 1 of the year following any modifications to the methodology for determining expected family contribution or the federal definition of student dependence or independence made pursuant to this section, the ~~commission~~ *Office of Higher Education and Financial Aid* shall report to the Governor and the Legislature the impact of the changes on those programs administered by the ~~commission~~ *office*.

SEC. 697. Section 69507.5 of the Education Code is amended to read:

69507.5. (a) Except as provided in subdivision (b), no student shall receive a grant or fellowship administered by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* if he or she has previously defaulted on any student loan, or has failed to repay a federal or state student grant ~~where~~ *if* required to do so.

(b) If a student has made satisfactory arrangements to repay a default on a previous student loan, or to repay grant funds ~~where~~ *if* required to do so, the student may be eligible to receive a grant or fellowship administered by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

SEC. 698. Section 69508 of the Education Code is amended to read:

69508. ~~When~~ *If* federal regulations defining the financial independence of students are altered, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall as soon as possible report to the Legislature on what changes are necessary to conform this article to federal standards.

SEC. 699. Section 69509 of the Education Code is amended to read:

69509. (a) Upon the commencement of any cause of action, including an emergency action, by the ~~commission~~ *Office of Higher Education and Financial Aid* against an educational institution in connection with the Federal Family Education Loan Program or other state student financial aid program, the ~~director of the commission~~ *Office of Higher Education and Financial Aid* may order that all or any part of state financial aid funds scheduled to be delivered to that institution by the ~~commission~~ *office*, whether payable to that institution or its students, be withheld from the institution and deposited in a separate state account. However, in order to alleviate the financial hardships imposed upon students by withholding the delivery of state financial aid funds to an educational institution, the ~~director of the commission~~ *Office of Higher Education and Financial Aid*, at any time after the initial withholding, may release state financial aid funds to these students, giving first priority to the release of funds for subsistence payments.

(b) The ~~director~~ *Office of Higher Education and Financial Aid* shall give notice to the institution and affected students of any action taken pursuant to subdivision (a).

(c) The ~~director~~ *Office of Higher Education and Financial Aid*, upon the termination of any action taken pursuant to subdivision (a), shall order the disposition of the withheld funds in a manner consistent with the outcome of the cause of action and in the best interest of the affected students. The ~~director~~ *Office of Higher Education and Financial Aid* may order that the funds be withheld from an institution permanently, in which case those funds shall be returned to the state fund or account from which it originated, for subsequent use by the ~~commission~~ *office*.

(d) "Cause of action" and "emergency action," for the purposes of this section, mean those actions described in Sections 30302 and 30304 of Title 5 of the California Code of Regulations, and as those sections may subsequently be amended, concerning the limitation, suspension, and termination of eligibility under the Federal Family Education Loan Program.

SEC. 700. Section 69509.5 of the Education Code is amended to read:

69509.5. (a) Within five days of the commencement of any cause of action, including an emergency action, by the ~~commission~~ *Office of Higher Education and Financial Aid* against a private postsecondary educational institution in connection with the Federal Family Education Loan Program, the ~~director of the commission~~ *office* shall give notice, in writing, of the commencement of the action to the ~~Council~~ *Bureau* for Private Postsecondary and Vocational Education.

(b) "Cause of action" and "emergency action" for the purposes of this section, mean those actions described in Sections 30302 and 30304 of Title 5 of the California Code of Regulations, and as those sections may subsequently be amended, concerning the limitation, suspension, and termination of eligibility under the Federal Family Education Loan Program.

(c) The ~~director of the commission~~ *Office of Higher Education and Financial Aid*, or ~~his or her~~ *its* designee, shall give written notice to the ~~Council~~ *Bureau* for Private Postsecondary and Vocational Education ~~when~~ *if*, in the administration of a program review concerning any private postsecondary educational institution's participation in the Cal Grant Program or the Federal

Family Education Loan Program, evidence indicates that a private postsecondary educational institution is in violation of the standards adopted by its responsible accrediting agency ~~or when it is in violation of Section 94800, Sections 94811 to 94825, inclusive, or Section 94930~~.

(d) The ~~director of the commission~~ *Office of Higher Education and Financial Aid* may develop selection criteria for the scheduled review of any private postsecondary or vocational educational institution.

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

SEC. 701. The heading of Article 2 (commencing with Section 69510) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code is amended to read:

Article 2. The Student Aid ~~Commission~~ *Functions of the Office of Higher Education and Financial Aid*

SEC. 702. Section 69510 of the Education Code is repealed.

~~69510. The Student Aid Commission shall be composed of the following 15 members:~~

~~(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.~~

~~(b) One representative from a California independent college or university.~~

~~(c) One representative each from the University of California, the California State University, and the California Community Colleges.~~

~~(d) Two members each of whom shall be a student enrolled in a California postsecondary educational institution at the time of appointment, and shall be enrolled in a California postsecondary educational institution for the duration of the term. A student member who graduates from an institution with no more than six months of his or her term remaining shall be permitted to serve for the remainder of the term.~~

~~(e) Three public members.~~

~~(f) One representative from a California secondary school.~~

~~(g) Two representatives appointed by the Senate Rules Committee.~~

~~(h) Two representatives appointed by the Speaker of the Assembly.~~

SEC. 703. Section 69511 of the Education Code is amended to read:

69511. (a) ~~Except as provided in subdivision (b), each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have terms of two academic years~~ *Any reference to the "Student Aid Commission" or "commission" in this part shall refer to the Office of Higher Education and Financial Aid*.

~~(b) The term of one member appointed pursuant to subdivision (g) of Section 69510 and the term of one member appointed pursuant to subdivision (h) of Section 69510, effective January 1, 1991, shall be for five years. Each subsequent term for members appointed pursuant to this subdivision shall be for four years.~~

~~(c) At no time shall both student representatives be enrolled in the same segment of postsecondary education in California. For purposes of this subdivision, each postsecondary education program listed in subdivisions (a), (b), and (c) of Section 69510 is a segment of postsecondary education in California.~~

~~(d) Appointment to the commission of members appointed pursuant to subdivisions (a) to (f), inclusive, of Section 69510 shall be made by the Governor subject to confirmation by the Senate.~~

~~(e) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. The appointee shall hold office only for the balance of the unexpired term.~~

~~(f) Each member of the commission shall receive a stipend of one hundred dollars ($100) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission. In addition, each member shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.~~

~~(g)~~

(b) (1) Whenever by ~~the provisions of~~ any act of Congress a program of scholarships or grants for undergraduate students is established ~~which~~ *that* permits administration of the program within a state by a state agency, the ~~Student Aid Commission, as established by Section 69510~~, *Office of Higher Education and*

Financial Aid shall administer the act within the state if the Governor and the ~~Student Aid Commission, by a majority vote of its entire membership,~~ *office* determine that the participation by the state in the federal scholarship or grant program under the act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

~~The commission~~

(2) The Office of Higher Education and Financial Aid shall constitute the state commission on federal scholarships or grants, and is hereby empowered to formulate a plan for development and administration of ~~any such~~ *a* federal scholarship or grant program within the state.

~~Subject~~

(c) Subject to ~~the provisions of~~ this chapter, the ~~commission~~ *Office of Higher Education and Financial Aid* is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

~~Before~~

(d) Before adopting a state plan, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

SEC. 704. Section 69511.5 of the Education Code is repealed.

~~69511.5. (a) Notwithstanding Section 69511, the Governor shall appoint each student member of the Student Aid Commission pursuant to subdivision (d) of Section 69510 from the persons nominated in accordance with the provisions of subdivision (b).~~

~~(b) For each student member of the commission, the appropriate student organization may submit a list of nominees. The list shall specify not less than three and not more than five nominees. The appropriate student organization for each segment shall be a composite group of at least five representative student government associations, as determined by the commission.~~

~~(c) The student member appointed to the commission shall not be enrolled in the same segment as the outgoing student member or in the same segment of the other sitting student member.~~

~~(d) Participating student organizations designated in subdivision (b) shall inform students within their respective segment of pending student vacancies on the commission.~~

~~(e) The person appointed as a student member of the Student Aid Commission pursuant to this section shall be subject to confirmation by the Senate as required in subdivision (d) of Section 69511.~~

SEC. 705. Section 69512 of the Education Code is repealed.

~~69512. The members of the commission shall annually select a chairperson from the members of the commission.~~

SEC. 706. Section 69513 of the Education Code is amended to read:

69513. The ~~commission shall appoint a director who shall be the chief executive officer for the commission and who shall serve at the pleasure of the commission. The Legislature hereby requests the commission to designate that executive officer as the person holding the position confidential to it, within the meaning of subdivision (e) of Section 4 of Article VII of the Constitution.~~

~~The commission~~ *Office of Higher Education and Financial Aid* may employ other employees as it deems necessary to carry out its functions under this chapter.

SEC. 707. Section 69513.1 of the Education Code is repealed.

~~69513.1. The commission may delegate to the director any power, duty, purpose, function, or jurisdiction that the commission may lawfully delegate, including the authority to enter into and sign contracts on behalf of the commission. The director may redelegate any of those powers, duties, purposes, functions, or jurisdictions to his or her designee, unless by statute, or rule or regulation, the director is expressly required to act personally.~~

SEC. 708. Section 69513.5 of the Education Code is repealed.

~~69513.5. In no event shall the director of the commission, any employee of the commission, or any individual retained by the commission serve as chairperson or a member of an advisory committee of the commission. This prohibition shall include, but not be limited to, all advisory committees established by statute and all advisory committees established by the commission.~~

SEC. 709. Section 69514 of the Education Code is amended to read:

69514. The ~~commission~~ *Office of Higher Education and Financial Aid* shall do all of the following:

(a) Report, on or before April 1 of each year, statistical data examining the impact and effectiveness of state-funded programs. The ~~commission~~ *Office of Higher Education and Financial Aid* shall utilize common criteria in determining the impact of these programs, and shall have the authority to obtain any data from postsecondary educational institutions necessary for the reports. To the extent practicable, this report shall specifically note the number and the demographic characteristics of the students who qualify for a Cal Grant award based on obtaining high school graduation or its equivalent pursuant to paragraph (2) of subdivision (e) of Section 69433.9.

(b) Collect and disseminate data concerning the financial resources and needs of students and potential students~~,~~ and the scope and impact of existing state, federal, and institutional student aid programs.

(c) Report, on or before April 1 of each year, the aggregate financial need of individuals seeking access to postsecondary education and the degree to which current student aid programs meet this legitimate financial need.

(d) Develop and report annually the distribution of funds and awards among income groups, ethnic groups, grade point average levels, and postsecondary education segments.

(e) Prepare and disseminate information regarding the criteria utilized in distributing available student aid funds.

(f) Be authorized to expend funds for the purpose of disseminating information about all institutional, state, and federal student aid programs to potential applicants. This distribution of information shall primarily focus on potential applicants with the greatest financial need.

SEC. 710. Section 69515 of the Education Code is repealed.

~~69515. As used in this division, "commission" means the Student Aid Commission created by this article.~~

SEC. 711. Section 69517 of the Education Code is amended to read:

69517. (a) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, in consultation with an advisory

committee of students and representatives of postsecondary institutions, may make adjustments to award selection procedures and selection criteria. In determining adjustments, the ~~commission~~ *Office of Higher Education and Financial Aid* shall consider at least all of the following factors:

(1) The impact of the adjustments on the distribution of funds and awards among income groups, ethnic groups, and grade point average levels.

(2) The impact of the adjustments on the distribution of funds and awards among postsecondary education segments.

(3) The costs of implementing proposed adjustments.

(4) The availability of financial aid from other sources for students who qualify for an award.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* may also consider the impact of inflation in the proposed adjustments pursuant to subdivision (a).

(c) In proposing changes to the procedures and criteria for award selection that would result in a substantive change in the recipient population, the ~~commission~~ *Office of Higher Education and Financial Aid* shall submit the proposed changes for public review and comment in accordance with procedures established in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 712. Section 69517.5 of the Education Code is amended to read:

69517.5. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall, with the assistance of the Attorney General's office, seek refunds on any awards to students made under this part that resulted from the student or his or her parents, or both, reporting information concerning their status incorrectly, with the incorrect information leading to the establishment of the student's financial eligibility to receive an award.

SEC. 713. Section 69518 of the Education Code is amended to read:

69518. (a) By September 15 of each fiscal year, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall submit budget change proposals to the Department of Finance for inclusion in the Governor's Budget prepared pursuant to Section 12 of Article IV of the California Constitution.

(b) The budget change proposals submitted pursuant to subdivision (a) shall include, but not be limited to, an analysis of the impact of any proposed adjustments in the distribution of funds and awards.

(c) Any supporting materials prepared for the ~~Student Aid Commission's~~ consideration *of the Office of Higher Education and Financial Aid* and public review and comment pursuant to this section, including, when it becomes available, data pertaining to the impact of any proposed adjustments on the distribution of funds and awards among income groups, ethnic groups, grade point average levels, and postsecondary education segments, shall be incorporated within the expenditure plan.

(d) If the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* proposes, in its budget change proposals, adjustments to the maximum grant, number of grants, and the income ceiling for grant awards made pursuant to Section ~~69532~~ *69432.7*, at least the following factors shall be considered in determining the appropriate adjustments:

(1) The impact of inflation.

(2) The availability of financial aid from other sources for students who would qualify for a grant award.

(3) Any changes in the level of educational support provided to students at public colleges and universities in the state.

(4) The impact of proposed adjustments in the maximum grant and in the income ceiling upon the utilization of public and private postsecondary educational institutions.

(5) The number of applicants eligible to receive an award in the previous year who did not receive an award in the previous year.

SEC. 714. Section 69522 of the Education Code is amended to read:

69522. (a) (1) The ~~commission~~ *Office of Higher Education and Financial Aid* may establish an auxiliary organization for the purpose of providing operational and administrative services for the ~~commission's~~ *office's* participation in the Federal Family Education Loan Program, or for other activities approved by the ~~commission~~ *office* and determined by the ~~commission~~ *office* to be all of the following:

(A) Related to student financial aid.

(B) Consistent with the general mission of the ~~commission~~ *Office of Higher Education and Financial Aid*.

(C) Consistent with the purposes of the federal Higher Education Act of 1965 (Public Law 89-329) and amendments thereto.

(2) The activities approved by the ~~commission~~ *Office of Higher Education and Financial Aid* under this subdivision shall not include either of the following:

(A) The issuance of bonds.

(B) Loan origination or loan capitalization activities. This paragraph shall not preclude the ~~commission~~ *Office of Higher Education and Financial Aid* or the auxiliary organization from undertaking other permitted activities that are related to student financial aid in partnership with institutions that conduct loan origination or loan capitalization activities.

(b) The auxiliary organization shall be established and maintained as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) (1) The ~~commission~~ *Office of Higher Education and Financial Aid* shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program and other permitted activities that are related to student financial aid, if those services are determined by the ~~commission~~ *Office of Higher Education and Financial Aid* to be consistent with the overall mission of ~~the commission~~ *that office*.

(2) On or after the operative date of Article 2.4 (commencing with Section 69521), the ~~commission~~ *Office of Higher Education and Financial Aid* shall not authorize the auxiliary organization to perform any new or additional services except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(3) The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration

and delivery of ~~commission~~ programs and services. The ~~commission~~ *Office of Higher Education and Financial Aid* shall conduct regular performance evaluations of the operation of auxiliary organizations in furtherance of its fiscal and fiduciary responsibilities for approved programs.

(d) (1) (A) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually by the ~~commission~~ *Office of Higher Education and Financial Aid*. On and after January 1, 2002, the ~~commission~~ *Office of Higher Education and Financial Aid* may approve an operating agreement for a period not to exceed five years. Prior to approval, the ~~commission~~ *Office of Higher Education and Financial Aid* shall provide a copy of the proposed operating agreement to the Department of Finance and the Joint Legislative Budget Committee for their review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.

(B) On or after the operative date of Article 2.4 (commencing with Section 69521), the ~~commission~~ *Office of Higher Education and Financial Aid* shall not approve any operating agreement that permits the auxiliary organization to perform any new or additional services, except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(2) Prior to approval of any amendment to an existing operating agreement or any new operating agreement with an auxiliary organization or subsidiary auxiliary organization for the purpose of delineating new services or activities authorized pursuant to subdivision (a), the ~~commission~~ *Office of Higher Education and Financial Aid* shall provide the Director of Finance and the Joint Legislative Budget Committee with at least 45 days advance notice in writing that includes a description of the proposed operating agreement. If the Director of Finance or the Joint Legislative Budget Committee notifies the ~~commission~~ *Office of Higher Education and Financial Aid* regarding issues of concern with the proposed operating agreement, the ~~commission~~ *office* shall convene a meeting of appropriate representatives from the ~~commission~~

office, the Department of Finance, and the Legislature to resolve those issues.

(e) The commission shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

SEC. 715. Section 69522.5 of the Education Code is amended to read:

69522.5. (a) Notwithstanding any other provision of law, employees of the ~~commission~~ *Office of Higher Education and Financial Aid* may be assigned to work for the auxiliary organization to provide services pursuant to this article. While they are assigned to work for the auxiliary organization, these employees shall remain employees of the ~~commission~~ *Office of Higher Education and Financial Aid* and the status, rights, and benefits of these employees shall be based on their employment as civil service employees of the ~~commission~~ *office*.

(b) Employees of the auxiliary organization shall not be employees of the State of California, and shall not be subject to the requirements of Chapter 10.3 (commencing with Section 3512) of, or of Chapter 10.5 (commencing with Section 3525) of, Division 4 of Title 1 of the Government Code. Employees of the auxiliary organization shall have the right to representation consistent with the National Labor Relations Act (29 U.S.C. Secs. 151 et seq.).

SEC. 716. Section 69523 of the Education Code is amended to read:

69523. (a) For purposes of this section, the following definitions apply:

(1) "Executive employee" is any management employee with responsibility for the development and execution of the auxiliary organization's policy.

(2) "Full-time employee" is a person who is employed in a permanent position for 40 hours per week or for the required number of hours of a particular work shift, whichever is ~~lesser~~ *less*. Persons employed on a temporary, intermittent, irregular time base, or on a limited-term basis, are not full-time employees unless those employees are engaged on a continuing 12-month basis and

are employed for 40 hours per week or for the required number of hours of a particular work shift, whichever is ~~the lesser~~ *less*.

(3) "Temporary employee" is either of the following:

(A) An employee employed for a research project, workshop, institute, or other special project funded by any grant, contract, or gift.

(B) An employee whose contract of employment is for a fixed term not exceeding three years.

(b) The operating agreement approved by the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to Section 69522 may include provisions requiring the board of directors of the auxiliary organization to provide salaries, working conditions, and benefits for the full-time employees of the auxiliary organization that are comparable to those provided ~~commission~~ *office* employees performing similar services.

SEC. 717. Section 69525 of the Education Code is amended to read:

69525. (a) The auxiliary organization established pursuant to Section 69522 shall be governed by a board of directors nominated and appointed by the ~~commission~~ *Office of Higher Education and Financial Aid*. One member of the board of directors shall be an employee of the auxiliary organization, and one member of the board of directors shall be a student enrolled in a California public or private postsecondary educational institution. The ~~commission~~ *Office of Higher Education and Financial Aid* shall determine the composition of the remainder of the board of directors, including both the size and categories of membership of the board.

(b) The board of directors shall, during each fiscal year, hold at least one business meeting each quarter. The board of directors shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney nor the certified public accountant need be members of the board.

(c) No member of the board of directors shall be financially interested in any contract or other transaction entered into by the board of which he or she is a member, and, except as provided in subdivision (d), any contract or transaction entered into in violation of this subdivision is void.

(d) No contract or other transaction entered into by the board of directors is void under subdivision (c), nor shall any member

of that board be disqualified or deemed guilty of misconduct in office under those provisions, if both of the following circumstances exist:

(1) The member's financial interest is disclosed or known to the board of directors and noted in the minutes, and the board of directors thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of that financially interested member or members.

(2) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

(e) Subdivision (d) does not apply if any of the following circumstances exists:

(1) The contract or transaction is between the auxiliary organization and a member of the board of directors.

(2) The contract or transaction is between the auxiliary organization and a partnership or unincorporated association of which any member of the board of directors is a partner or in which he or she is the owner or holder, directly or indirectly, of a proprietorship interest.

(3) The contract or transaction is between the auxiliary organization and a corporation in which any member of the board of directors is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.

(4) A member of the board of directors is interested in a contract or transaction within the meaning of subdivision (c) and, without first disclosing that interest to the board of directors at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

(f) It is unlawful for any person to utilize any information, not a matter of public record, that is received by him or her by reason of his or her membership on the board of directors, for personal pecuniary gain, regardless of whether he or she is or is not a member of the board of directors at the time that gain is realized.

(g) (1) The board of directors of the auxiliary organization shall conduct its business in public meetings in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(2) Notwithstanding paragraph (1), the board of directors of the auxiliary organization may hold a closed session to consider a matter of a proprietary nature the discussion of which would disclose a trade secret or proprietary business information that could potentially cause economic harm to the auxiliary organization or cause it to violate an agreement with a third party to maintain the information in confidence if that agreement was made in good faith and for reasonable business purposes.

(3) Notwithstanding any other law, the ~~commission~~ *Office of Higher Education and Financial Aid* may hold a closed session to consider a matter that may properly be considered in closed session by the board of directors of the auxiliary organization pursuant to paragraph (2).

SEC. 718. Section 69526 of the Education Code is amended to read:

69526. (a) The board of directors shall approve all expenditures and fund authorizations of the auxiliary organization. Authorizations of expenditure of funds for use outside of the normal business operations of the auxiliary organization shall be approved by an officer of the ~~commission~~ *Office of Higher Education and Financial Aid* and in accordance with ~~commission~~ *office* policy.

(b) On or after the operative date of Article 2.4 (commencing with Section 69521), and, notwithstanding any approval by the ~~commission~~ *Office of Higher Education and Financial Aid* or any of its officers or employees or by the board of directors made after August 1, 2007, any expenditure of funds held by the auxiliary organization for the following purposes shall be subject to the prior approval of the Director of Finance:

(1) Increases in compensation or benefits for officers of the auxiliary organization, including discretionary bonuses and retention bonuses.

(2) Outreach programs, public awareness campaigns, or diversification of the auxiliary organization's business or data processing systems that are not deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the purposes of Article 2.4 (commencing with Section 69521).

(3) Activities other than any of the following:

(A) Those directly related to providing guarantees under the Federal Family Education Loan Program, which shall not be deemed to include any of the activities set forth in paragraph (2).

(B) Those required to provide operational support services to the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to the operating agreement between the ~~commission~~ *office* and the auxiliary organization, which shall not be deemed to include any of the activities set forth in paragraph (2).

(C) Those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the purposes of Article 2.4 (commencing with Section 69521).

(c) The ~~commission~~ *Office of Higher Education and Financial Aid*, in consultation with the Department of Finance and the board of directors of the auxiliary organization, shall do all of the following:

(1) Institute a standard accounting and reporting system for the management and operations of the auxiliary organization.

(2) Implement financial standards that will ensure the fiscal viability of the auxiliary organization. The standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, and adequate provisions for new business requirements.

(3) Institute procedures to ensure that transactions of the auxiliary organization are consistent with the mission of the ~~commission~~ *Office of Higher Education and Financial Aid*.

(4) Develop policies for the expenditure of funds derived from indirect cost payments not required to implement paragraph (2). The use of those funds shall be regularly reported to the board of directors.

(d) The auxiliary organization shall not accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with the policies of the ~~commission~~ *Office of Higher Education and Financial Aid*.

SEC. 719. Section 69527 of the Education Code is amended to read:

69527. (a) A certified public accountant shall be selected by the auxiliary organization, and shall audit all funds of the auxiliary organization in accordance with applicable auditing and reporting

procedures developed by the ~~commission~~ *Office of Higher Education and Financial Aid* and the Department of Finance. The auxiliary organization shall contract for and receive the audit annually, and shall submit the audit to the ~~commission~~ *Office of Higher Education and Financial Aid* and the Department of Finance. The auxiliary organization shall publish and disseminate its annual audited statement and make it available to any person upon request. Distribution of the published audited statement of financial condition at a regularly scheduled meeting of the board of directors shall be deemed compliance with this requirement.

(b) The Department of Finance may review the performance and operation of the auxiliary organization.

SEC. 720. Section 69528 of the Education Code is amended to read:

69528. The auxiliary organization may contract with the ~~commission~~ *Office of Higher Education and Financial Aid* for the provision of support services, which may include, but are not *necessarily* limited to, accounting, personnel, clerical, administrative support, and other services necessary for the administration of the auxiliary organization.

SEC. 721. Section 69529 of the Education Code is amended to read:

69529. The operating agreement with the board of directors of the auxiliary organization, approved by the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to subdivision (d) of Section 69522, shall cover all of the following:

(a) Any support services provided or special programs administered by the auxiliary organization.

(b) The sources of revenue available to the auxiliary organization, including agreements concerning federal administrative cost allowances, guarantee fees charged to borrowers, and retention of funds obtained through collections on defaulted loans.

(c) Support and administrative services to be provided by ~~commission~~ staff *of the Office of Higher Education and Financial Aid*, including accounting, personnel, clerical, administrative support, and other services necessary for the administration of the auxiliary organization.

SEC. 722. Section 69529.5 of the Education Code is amended to read:

69529.5. (a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall report the following information to the Legislature on April 1 of each year, with respect to the operation of the auxiliary organization:

(1) A description of the services provided by the auxiliary organization.

(2) The auxiliary organization's annual budget, funded activities, and personnel, including the sources of revenue available to fund its operations.

(3) Descriptions of changes made in the delivery of loans to California students and enhancements to programs and activities administered by the ~~commission~~ *Office of Higher Education and Financial Aid*. The descriptions shall reflect all changes, both positive and negative.

(4) The level of compensation of managers and executives of the auxiliary organization.

(b) Commencing on April 1, 2005, and on April 1 of each year, ending on April 1, 2010, the ~~commission~~ *Office of Higher Education and Financial Aid* shall specifically describe the actions taken, and report the costs incurred and the revenues realized, by the auxiliary organization in disbursement services, loan servicing and repayment, secondary market, and private lender activities that the auxiliary organization undertakes pursuant to subdivision (a) of Section 69522.

SEC. 723. Section 69532 of the Education Code is amended to read:

69532. Cal Grant Program awards shall be known as "Cal Grant A awards," "Cal Grant B awards," "Cal Grant C awards," and "Cal Grant T awards." The maximum award in each category shall be determined in the annual Budget Act.

(a) Cal Grant A awards shall be used only for tuition and student fees in an instructional program of no less than two academic years. Commencing as soon as feasible, but no later than the award cycle that provides awards for the 1999–2000 academic year, the eligibility criteria for first-time Cal Grant award recipients who are community college students and transfer to a four-year college or university shall be no more stringent than the eligibility criteria for other first-time Cal Grant award recipients attending a four-year college or university.

(b) Cal Grant B awards shall be used only for tuition, student fees, and subsistence costs in an instructional program of no less than one academic year. Subsistence costs are living expenses, transportation, supplies, and books. Commencing as soon as feasible, but no later than the award cycle that provides awards for the 1999–2000 academic year, the eligibility criteria for first-time Cal Grant award recipients who are community college students and transfer to a four-year college or university shall be no more stringent than the eligibility criteria for other first-time Cal Grant award recipients attending a four-year college or university.

(c) Cal Grant C awards shall be used only for occupational or technical training in a course of no less than four months. There shall be a minimum of 1,570 new Cal Grant C awards each year.

(d) Cal Grant T awards shall be used only for tuition and student fees for a maximum of one academic year of full-time attendance in a program of professional preparation that has been approved by the Commission on Teacher Credentialing. There shall be a minimum of 3,000 new Cal Grant T awards each year. As a condition of receiving a Cal Grant T award, a recipient shall teach for one year in a high-priority school as defined in subdivision ~~(c)~~ *(e)* of Section ~~44765~~ *44395* for each two thousand dollar ($2,000) incentive provided pursuant to Section ~~69532~~ *69541* through the Cal Grant T Program, for a period not to exceed four years. Any recipient who fails to meet his or her teaching obligation shall repay the Cal Grant T award.

(e) The ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall evaluate the Cal Grant T Award program from its inception to determine, of the total number of recipients, the number of recipients who become employed as public school teachers. This evaluation shall be reported on an annual basis to the Governor and the Legislature beginning July 1, 2001.

SEC. 724. Section 69533 of the Education Code is amended to read:

69533. Cal Grant awards authorized pursuant to Section 69532 shall be defined as full-time equivalent grants. Awards to part-time students shall be a fraction of a full-time grant, as determined by the ~~commission~~ *Office of Higher Education and Financial Aid*.

SEC. 725. Section 69534.1 of the Education Code is amended to read:

69534.1. (a) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall authorize the use of standardized student financial aid application forms for California. These forms shall be simple in nature and collect common data elements required by the federal government and those elements needed to meet the objectives of state-funded and institutional financial aid programs.

(b) These forms shall be utilized for the Cal Grant Program, all other programs funded by the state or a public institution of postsecondary education (except for the Board of Governors' Financial Assistance Program authorized by Chapter 1118 of the Statutes of 1987, for which a simplified form designed for that sole purpose may be used), and all federal programs administered by a public postsecondary education institution.

(c) Supplemental forms may be utilized if the forms are essential to accomplishing the objectives of individual programs. All supplemental forms utilized by public postsecondary educational institutions shall be subject to approval by the ~~commission~~ *Office of Higher Education and Financial Aid*, and forms shall be identical for programs with similar objectives, as determined by the ~~commission~~ *office*.

(d) Public postsecondary institutions are encouraged to, but may decide whether to, use the standard application forms for funds provided by private donors.

(e) The Legislature finds and declares that it is in the best interest of students that all postsecondary education institutions in California participating in federal and state-funded financial aid programs accept the standard application forms authorized by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

SEC. 726. Section 69534.4 of the Education Code is amended to read:

69534.4. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may enter into contracts with a public agency or a private entity to improve the processing and distribution of grants, fellowships, and loans through the use of electronic networks and unified ~~data bases~~ *databases*.

SEC. 727. Section 69535 of the Education Code is amended to read:

69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the ~~commission~~ *office*.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the ~~commission~~ *Office of Higher Education and Financial Aid*. First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to age or the characteristics listed in Section 66270.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69540.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) Commencing in 1999, the ~~commission~~ *Office of Higher Education and Financial Aid* shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The ~~commission~~ *Office of Higher Education and Financial Aid* shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(j) The ~~commission~~ *Office of Higher Education and Financial Aid* may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the ~~commission~~ *office* may deem proper.

(k) The ~~commission~~ *Office of Higher Education and Financial Aid* may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(*l*) A Cal Grant Program award may be utilized only at the following institutions or programs:

(1) Any California private or independent postsecondary educational institution or program that participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant program.

(2) Any nonprofit regionally accredited institution headquartered and operating in California that certifies to the ~~commission~~ *Office of Higher Education and Financial Aid* that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants and that demonstrates to the ~~commission~~ *office* that it has the administrative capacity to administer the funds.

(3) Any California public postsecondary educational institution or program.

SEC. 728. Section 69535.5 of the Education Code is amended to read:

69535.5. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may determine that an advanced payment is essential to ~~assure~~ *ensure* that funds provided pursuant to this chapter to assist students to enroll in postsecondary education are available at the time students enroll. Upon making that determination, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may, based on institutional academic calendars, advance per term to authorized postsecondary educational institutions the funds for eligible students who have indicated they will attend those institutions less an amount based on historical claim enrollment attrition information. Each institution shall disburse the funds in accordance with the provisions set forth in the Institutional Agreement between the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* and the institution.

SEC. 729. Section 69537 of the Education Code is amended to read:

69537. An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in trust for him or her for a period not to exceed two academic years, except that the ~~commission~~ *Office of Higher Education and Financial Aid* may extend the period in which his or her award may be held in trust for up to three academic years if, in the ~~commission's~~ *office's* judgment, the student's rate of academic progress has been as rapid as could be expected in light of the personal and financial conditions that the student has encountered. The ~~commission~~ *Office of Higher Education and Financial Aid* shall, in that case, hold the award in trust, to be granted to the award winner upon receipt of his or her request therefor within that period, provided that at the time of making the request he or she meets all of the requirements of this chapter. Upon receipt of the request, the ~~commission~~ *Office of Higher Education and Financial Aid* shall assess or reassess the financial needs of the award winner. The ~~commission~~ *Office of Higher Education and Financial Aid* may prescribe the forms and procedures to be utilized for the purposes of this section. The ~~commission~~ *Office of Higher Education and Financial Aid* may award to another eligible individual any award being so held in

trust, subject to this section and any other conditions and restrictions that may be imposed by the ~~commission~~ *office*, to the end that all authorized awards are being continually utilized. Following the first year for which any Cal Grant award is made, the awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

SEC. 730. Section 69538 of the Education Code is amended to read:

69538. (a) To be eligible for a Cal Grant B award, the applicant shall be a disadvantaged student under criteria to be established by the ~~commission~~ *Office of Higher Education and Financial Aid*, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper access to and persistence in postsecondary programs.

(b) The Legislature recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students, and it is the intent of the Legislature that the additional opportunities for higher education provided pursuant to this section shall be initiated primarily on the public community college level.

(c) Regarding the intent that the additional opportunities for higher education provided under this section be initiated primarily on the public community college level, the ~~commission~~ *Office of Higher Education and Financial Aid* shall continue to allocate Cal Grant B awards as they were allocated up to and including the 1997–98 academic year.

(d) Awards under this section shall be for subsistence costs. The ~~commission~~ *Office of Higher Education and Financial Aid* may also award these grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university or other eligible postsecondary educational institution. No more than 2 percent of new recipients enrolling for the first time in an institution of postsecondary education shall be eligible for tuition payments and fees in their first academic year of attendance.

(e) An individual selected for a Cal Grant B award who enrolls in a public community college in his or her first year of attendance,

and who is determined to be financially ineligible for renewal of the award in the second year of attendance at a public community college but would be financially eligible for renewal, if he or she had elected to attend a four-year college, may elect to have the award held in trust for a period not to exceed two academic years, except that the ~~commission~~ *Office of Higher Education and Financial Aid* may extend the period in which the award is held in trust for up to three academic years, if, in the ~~commission's~~ *office's* judgment, the individual's rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the individual has encountered. The ~~commission~~ *Office of Higher Education and Financial Aid* shall, in this case, hold the award in trust, to be granted to the individual upon receipt of his or her request therefor within that period, provided that at the time of making the request the individual meets all the requirements of this chapter. Upon receipt of the request, the ~~commission~~ *Office of Higher Education and Financial Aid* shall assess or reassess the financial needs of the individual. The ~~commission~~ *Office of Higher Education and Financial Aid* may prescribe the forms and procedures to be utilized for the purposes of this section. The ~~commission~~ *Office of Higher Education and Financial Aid* may award to another eligible individual any award being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the ~~commission~~ *office*, to the end that all authorized awards are continually being utilized. Following the first year for which any award is made, the awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

SEC. 731. 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.

(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~~ *Office of Higher Education and Financial Aid*.

(c) The ~~commission~~ *Office of Higher Education and Financial Aid* may use criteria it deems appropriate in selecting students with

occupational talents to receive grants for occupational or technical training.

(d) The Cal Grant C recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the ~~commission~~ *Office of Higher Education and Financial Aid*. In no case shall the grants exceed two calendar years.

(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~~ *Office of Higher Education and Financial Aid* shall take into account other state and federal programs available to the applicant.

(f) Cal Grant C awards shall be awarded in areas of occupational or technical training as determined by the ~~commission~~ *Office of Higher Education and Financial Aid* after consultation with appropriate state and federal agencies.

SEC. 732. Section 69540 of the Education Code is amended to read:

69540. (a) Students who have completed a baccalaureate degree and who have been admitted to a program of professional teacher preparation at an institution approved by the California Commission on Teacher Credentialing are eligible to receive a Cal Grant T award for the equivalent of one year of full-time attendance. Payment for this additional year is limited to only those courses required for an initial teaching authorization. An award under this section may not be used for other courses.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* shall allocate Cal Grant T awards using academic criteria or criteria related to past performance similar to that used in awarding Cal Grant A awards.

SEC. 733. Section 69541 of the Education Code is amended to read:

69541. (a) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, to the extent funds are appropriated for the purposes of this section in the annual Budget Act, shall provide a supplemental grant equal to two thousand eight hundred dollars ($2,800) to recipients of Cal Grant awards who fulfill the following requirements:

(1) The person has been declared a dependent or ward of the court pursuant to Section 300 or Section 602 of the Welfare and Institutions Code.

(2) The person, within the 60-day period immediately prior to his or her 18th birthday, had a permanent plan of long-term foster care or guardianship.

(3) The person received aid pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

(b) The State Department of Social Services shall enter into an interagency agreement with the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* to allocate funds to the ~~commission~~ *office* appropriated in the Budget Act for the purposes of this section.

SEC. 734. Section 69544 of the Education Code is amended to read:

69544. The ~~commission~~ *Office of Higher Education and Financial Aid* from time to time shall adopt ~~such~~ rules and regulations ~~as it may determine~~, not in conflict with this chapter, ~~as may be~~ *that it deems* necessary or appropriate for effectuating ~~the provisions of~~ this chapter.

SEC. 735. Section 69546 of the Education Code is amended to read:

69546. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall each year recommend to the Legislature concerning the allocation of funds from the federal state student incentive grant program and the programs authorized in subdivisions (a), (b), and (c) of Section 69532.

SEC. 736. Section 69546.5 of the Education Code is amended to read:

69546.5. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall allocate federal and state student incentive grant funds among the Cal Grant A, B, and C programs.

SEC. 737. Section 69547 of the Education Code is amended to read:

69547. As used in this division, "part-time student" means a student who is enrolled in not less than one-half of the course load of a full-time student as determined by the ~~commission~~ *Office of Higher Education and Financial Aid*.

SEC. 738. Section 69561 of the Education Code is amended to read:

69561. (a) The Student Opportunity and Access Program is administered by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(b) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may apportion funds on a progress payment schedule for the support of projects designed to increase the accessibility of postsecondary educational opportunities for any of the following elementary and secondary school ~~students~~ *pupils*:

(1) ~~Students~~ *Pupils* who are from low-income families.

(2) ~~Students~~ *Pupils* who would be the first in their families to attend college.

(3) ~~Students~~ *Pupils* who are from schools or geographic regions with documented low-eligibility or college participation rates.

(c) These projects shall primarily do all of the following:

(1) Increase the availability of information for these ~~students~~ *pupils* on the existence of postsecondary schooling and work opportunities.

(2) Raise the achievement levels of these ~~students~~ *pupils* so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities.

(d) Projects may assist community college students in transferring to four-year institutions, to the extent that project resources are available.

(e) Projects may provide assistance to low-income fifth and sixth grade ~~students~~ *pupils* and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating ~~students~~ *pupils* to stay in school and complete college preparatory courses.

(f) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office, at least one four-year college or university, at least one community college, and at least one of the following agencies:

(1) A nonprofit educational, counseling, or community agency.

(2) A private vocational or technical school accredited by a national, state, or regional accrediting association recognized by the United States Department of Education.

(g) The ~~commission~~ *Office of Higher Education and Financial Aid*, in awarding initial project grants, shall give priority to

proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(h) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish management policy, provide direction to the project director, set priorities for budgetary decisions that reflect the specific needs of the project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(i) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.

(2) The ~~students~~ *pupils* to be served by the project.

(3) The ways in which the project will reduce duplication and related costs.

(4) The methods for assessing the project's impact.

(j) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to preparing ~~students~~ *pupils* for postsecondary education.

(k) Each project shall maintain within the project headquarters a comprehensive ~~student-specific~~ *pupil-specific* information system on ~~students~~ *pupils* receiving services through the program in grades 11 and 12 at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to pupil records.

(*l*) At least 30 percent or the equivalent of each project grant shall be allocated for stipends to peer advisers and tutors who meet all of the following criteria:

(1) Work with secondary school ~~students~~ *pupils*.

(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.

(3) Have demonstrated financial need for the stipend.

(m) Each project should work cooperatively with other projects in the program and with the ~~commission~~ *Office of Higher*

Education and Financial Aid to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

SEC. 739. Section 69562 of the Education Code is repealed.

~~69562. The Student Aid Commission shall establish a 12-member project grant advisory committee to advise project directors and the commission on the development and operation of the projects, and consisting of the following:~~

~~(a) Three representatives of outreach programs, representing the University of California, the California State University, and the California Community Colleges, appointed by their respective governing boards.~~

~~(b) One representative of private colleges and universities, appointed by the Association of California Independent Colleges and Universities.~~

~~(c) One representative of the California Postsecondary Education Commission, appointed by the commission.~~

~~(d) Two secondary school staff, appointed by the Superintendent of Public Instruction.~~

~~(e) Two persons representing the general public, one appointed by the Speaker of the Assembly and the other by the Senate Rules Committee.~~

~~(f) Two postsecondary students, both appointed annually by the California Postsecondary Education Commission.~~

~~(g) One college campus financial aid officer, appointed by the commission.~~

SEC. 740. Section 69612 of the Education Code is amended to read:

69612. (a) The Legislature finds and declares all of the following:

(1) There is a growing shortage of high-quality classroom teachers, and there is a need for qualified teachers throughout California.

(2) One of the most important elements in a pupil's success at learning is the quality of the teacher.

(3) The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession.

(4) Many school districts have difficulty recruiting and retaining high-quality teachers for high-priority schools, for pupils with special needs, for schools serving rural areas or large populations of pupils from low-income and linguistic minority families, and for schools with a high percentage of teachers holding emergency permits.

(5) The rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education.

(6) The availability of financial aid and loan repayment assistance ~~are~~ *is an* important ~~considerations~~ *consideration* for many students, especially economically disadvantaged students, in making their educational decisions.

(b) It is, therefore, the intent of the Legislature that all of the following occur:

(1) The Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with any or all of these characteristics.

(2) That the enactment of this article accomplish all of the following:

(A) Providing outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(B) Providing persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(C) Identifying subject matter areas or schools in which there are shortages of fully credentialed teachers and ~~provide~~ *providing*

incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(D) Identifying schools serving rural areas, schools serving large populations of students from low-income families, or both, and schools with a high percentage of teachers holding emergency permits, and ~~provide~~ *providing* incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

(E) Identifying high-priority schools and ~~provide~~ *providing* incentives for persons to obtain teaching credentials and seek teaching positions in those schools. For the purpose of this article, " high-priority school" means a school in the bottom half of the Academic Performance Index rankings established pursuant to subdivision (a) of Section 52056 at the time that a teacher is hired.

(3) Commencing with the 2000–01 school year, all persons eligible to enter into agreements for loan assumption pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed, and who agree to obtain a credential and teach in a designated subject matter shortage area or in a school that, at the time that the teacher is hired, meets any of the following criteria:

(A) Serves a large population of pupils from low-income families.

(B) Has a high percentage of teachers holding emergency permits. For the purposes of this article, a school with a "high percentage of teachers holding emergency permits" is a school in which 20 percent or more of the teachers hold emergency permits, teach pursuant to waivers of credential requirements, or are interns.

(C) Is a high-priority school.

(4) Funding necessary for the administration of this article shall be included within the annual budget of the ~~commission~~ *Office of Higher Education and Financial Aid* in an amount necessary to meet the student loan obligations incurred by the ~~commission~~ *office*.

SEC. 741. Section 69613 of the Education Code is amended to read:

69613. (a) (1) Any person enrolled in an eligible institution, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be

eligible to enter into an agreement for loan assumption, an applicant shall satisfy all of the conditions specified in subdivision (b).

(2) As used in this article, "eligible institution" means a postsecondary institution that is determined by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* to meet both of the following requirements:

(A) The institution is eligible to participate in state and federal financial aid programs.

(B) The institution maintains a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at an eligible institution, has agreed to participate in a teacher trainee program or teacher internship program, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled, or has been admitted to a program in which he or she will be enrolled on at least a half-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of half-time enrollment, as defined by the participating eligible institution.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(5) The applicant has agreed to teach full time for at least four consecutive academic years after obtaining a teaching credential

in a public elementary or secondary school in this state, in a subject area that is designated as a current or projected shortage area by the Superintendent of Public Instruction, or at a school that, at the time that the teacher is hired, meets any of the following criteria:

(A) It serves a large population of pupils from low-income families, as designated by the Superintendent of Public Instruction.

(B) It has 20 percent or more teachers holding emergency permits. For the purposes of this paragraph, "teachers holding emergency permits" includes persons who teach pursuant to waivers of credential requirements or who are interns.

(C) It is a low-performing school.

(c) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this section to participate in the loan assumption program set forth in this article.

(d) The agreements entered into each year pursuant to subdivision (b) at each eligible institution or participating school district or county office of education shall be with applicants who meet the criteria specified in paragraph (3) of subdivision (b) of Section 69612 or agree to teach in any of the subject areas listed pursuant to that section. An agreement shall remain valid even if the subject area under which an applicant becomes eligible to enter into an agreement ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) For the purposes of calculating eligible years of teaching for the redemption of an award, the designation by the Superintendent of Public Instruction of a ~~newly-opened~~ *newly opened* school pursuant to Section 52056 shall apply retroactively from the time of opening the school.

(f) A person participating in the program pursuant to this section shall not enter into more than one agreement.

SEC. 742. Section 69613.1 of the Education Code is amended to read:

69613.1. The Superintendent of Public Instruction shall furnish the ~~commission~~ *Office of Higher Education and Financial Aid* with all of the following:

(a) Every January 1 ~~thereafter~~, a list of teaching fields that have the most critical shortage of teachers. The ~~superintendent~~ *Superintendent* shall review this list annually and revise the list as he or she deems necessary. Commencing January 1, 2001, the list of shortage areas furnished pursuant to this subdivision shall

include the state special schools as a category separate from special education.

(b) A list of schools that serve a large population of pupils from low-income families, as designated for purposes of the Perkins Loan Program, or according to standards the ~~superintendent~~ *Superintendent* deems appropriate.

(c) Commencing January 31, 2001, and every January 1 thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the ~~superintendent~~ *Superintendent*.

(d) Commencing January 31, 2001, and every January 1 thereafter, a list of schools serving rural areas. The list shall be established according to standards deemed appropriate by the ~~superintendent~~ *Superintendent*.

(e) Commencing January 31, 2001, and every January 1 thereafter, a list of high-priority schools.

SEC. 743. Section 69613.2 of the Education Code is amended to read:

69613.2. The ~~commission~~ *Office of Higher Education and Financial Aid* shall commence loan assumption payments, as specified in Section 69613.4, upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a teaching credential requiring a baccalaureate degree, other than an emergency teaching permit, authorizing service for kindergarten or any of grades 1 to 12, inclusive.

(b) The applicant has provided full-time classroom instruction in a public elementary or secondary school for the equivalent of one school year.

(c) The applicant has met the requirements of the agreement and all other pertinent conditions of this article.

SEC. 744. Section 69613.4 of the Education Code is amended to read:

69613.4. (a) The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(1) After a program participant has completed one school year of classroom instruction pursuant to Section 69613.2, the ~~commission~~ *Office of Higher Education and Financial Aid* shall assume up to two thousand dollars ($2,000) of the participant's

outstanding liability under one or more of the designated loan programs.

(2) After a program participant has completed two consecutive school years of instruction, the ~~commission~~ *Office of Higher Education and Financial Aid* shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(3) After a program participant has completed three consecutive school years of teaching service, the ~~commission~~ *Office of Higher Education and Financial Aid* shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

(4) After a program participant has completed four consecutive school years of teaching service, the ~~commission~~ *Office of Higher Education and Financial Aid* shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eleven thousand dollars ($11,000).

(b) For purposes of this section, "school year" means at least 175 school days or its equivalent.

SEC. 745. Section 69613.5 of the Education Code is amended to read:

69613.5. Notwithstanding paragraph (3) of subdivision (b) of Section 69612 and Section 69614, for the purposes of the recruitment of teachers from outside California, the ~~commission~~ *Office of Higher Education and Financial Aid* may make agreements available to out-of-state teachers who fulfill the terms of Section 69613.4 and are otherwise eligible to enter into agreements. A teacher who enters into an agreement pursuant to this section shall hold a valid teaching credential, in the subject area of the California teaching position, from the state in which he or she resides.

SEC. 746. Section 69613.6 of the Education Code is amended to read:

69613.6. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive school

years of classroom instruction as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (b) of Section 69613, the participant shall assume full liability for all student loan obligations remaining after the ~~commission's~~ assumption, *by the office of Higher Education and Financial Aid,* of loan liability for the last year of qualifying teaching service pursuant to Section 69613.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the four consecutive years of teaching service due to serious illness, pregnancy, or other natural causes, the participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year.

SEC. 747. Section 69614 of the Education Code is amended to read:

69614. (a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall distribute program information and student applications to participate in the loan assumption program to each eligible institution and to each school district or county office of education operating a district intern program pursuant to Section 44381. Each eligible institution shall receive at least one application, and the remainder shall be distributed to eligible institutions proportionate to the number of teaching candidates from each institution who completed the coursework required for a teaching credential during the previous year. In addition, the ~~commission~~ *Office of Higher Education and Financial Aid* shall reexamine its outreach and marketing strategies to inform both potential undergraduates and persons employed outside of academia about the availability and benefits of the loan assumption program. To this end, the ~~commission~~ *Office of Higher Education and Financial Aid* shall enlist the advice and support of the California Center for the Teaching Profession, the University of California, the California State University, the Association of Independent California Colleges and Universities, and private employers and their associations throughout the state.

(b) Each eligible institution, school district, and county office of education shall sign an institutional agreement with the ~~commission~~ *Office of Higher Education and Financial Aid,* certifying its intent to administer the loan assumption program according to all applicable published rules, regulations, and

guidelines, and to make special efforts to notify students regarding the availability of the program, particularly economically disadvantaged students.

(c) To the extent feasible, each eligible institution shall coordinate the loan assumption program with other programs designed to recruit students to enter the teaching profession.

SEC. 748. Section 69615 of the Education Code is amended to read:

69615. (a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time during which an agreement shall remain valid, the reallocation of resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of classroom instruction, and the development of projections for funding purposes.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* shall solicit the advice of representatives from postsecondary education institutions, the State Department of Education, the Commission on Teacher Credentialing, school districts, and county offices of education regarding proposed rules and regulations.

SEC. 749. Section 69615.4 of the Education Code is amended to read:

69615.4. ~~The commission~~ *Notwithstanding Section 7550.5 of the Government Code, the Office of Higher Education and Financial Aid* shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of program participants.

(b) The number of agreements entered into with juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The number of participants who agree to teach in a subject matter shortage area.

(d) The number of participants who agree to teach in schools with a high ratio of pupils from low-income families and in high-priority schools.

(e) The number of participants who agree to teach in schools serving rural areas.

(f) The number of participants who agree to teach in schools with a high percentage of teachers holding emergency permits.

(g) The number of participants who receive a loan assumption benefit, classified by payment year.

(h) The number of participants who have participated in the Science, Mathematics, and Technology Teacher Pipeline Program established by Chapter 1271 of the Statutes of 1993.

(i) The number of out-of-state teachers who enter into agreements.

(j) The number of participants who have participated in teacher trainee programs or teacher internship programs, classified by school district or county office of education.

SEC. 750. Section 69615.6 of the Education Code is amended to read:

69615.6. (a) Beginning no later than the 1986–87 school year, and each school year thereafter up to and including the 1997–98 school year, the ~~commission~~ *Office of Higher Education and Financial Aid* shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998–99 school year, the ~~commission~~ *Office of Higher Education and Financial Aid* shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999–2000 school year the ~~commission~~ *Office of Higher Education and Financial Aid* shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000–01 school year, and each school year thereafter, all of the following shall apply:

(1) The ~~commission~~ *Office of Higher Education and Financial Aid* shall enter into agreements for the assumption of up to 6,500 student loans for program participants eligible under this article.

(2) Notwithstanding the limitation of 6,500 warrants set forth in paragraph (1), the ~~commission~~ *Office of Higher Education and Financial Aid* shall issue warrants in a quantity determined by the Governor and the Legislature in the annual Budget Act for the assumption of student loans.

(3) Priority for these agreements shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the ~~commission~~ *Office of Higher Education and Financial Aid*.

(4) Priority for these agreements shall be given to applicants who agree to obtain a teaching credential in mathematics or science.

(e) In any school year, the ~~commission~~ *Office of Higher Education and Financial Aid* may enter into no more than 500 agreements with applicants who participate in a district intern program operated by a school district or a county office of education.

(f) The issuance of warrants under this article in any fiscal year shall be subject to the provision of funding therefor in the annual Budget Act.

SEC. 751. Section 69620 of the Education Code is amended to read:

69620. There is hereby established the Child Development Teacher and Supervisor Grant Program, to be administered by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, with participation by students attending California public or private two-year or four-year postsecondary educational institutions who intend to teach or supervise in the field of child care and development in a licensed children's center. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* may enter into an agreement with another state or local agency to administer this program.

SEC. 752. Section 69622 of the Education Code is amended to read:

69622. (a) Participants shall be enrolled in an approved course of study leading to the teacher, site supervisor, or program director level of the Child Development Permit.

(b) An applicant shall be eligible to participate if he or she meets one of the following criteria:

(1) Is nominated by a postsecondary institution.

(2) Is nominated by his or her employing agency that holds an approved waiver of staffing qualifications on behalf of the applicant.

(c) From the list of applicants who are eligible under subdivisions (a) and (b), the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, or an agency designated by

the ~~commission~~ *office*, shall select participants on the basis of their demonstrated financial need and academic achievement, which may include, but not be limited to, high school grade-point average, college grade-point average, or academic test scores.

(d) Participants shall maintain no less than half-time enrollment and satisfactory academic progress as defined by the postsecondary educational institution.

(e) Recipients of a grant may renew their participation by maintaining satisfactory academic progress, financial need, and intent to pursue the approved course of study leading to the teacher, site supervisor, or program director level as provided in subdivision (a). The maximum amount any one recipient may receive through the grant program is six thousand dollars ($6,000).

(f) Participants may not concurrently receive benefits from the grant program under this article and from the Child Development Teacher Loan Assumption Program.

SEC. 753. Section 69623 of the Education Code is amended to read:

69623. (a) To receive a grant under this article, a participant shall enter into a contractual agreement with the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* under which the participant agrees to do all of the following:

(1) Pursue a course of study leading to the Child Development Permit at the teacher, site supervisor, or program director level.

(2) Maintain full-time employment in a licensed children's center in California for a period of one year for each year in which grant assistance was received and provide the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* with evidence of compliance with this requirement.

(b) Each participant shall complete and return to the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* an employment verification for each year of service as a teacher, instructor, or supervisor. A year of employment may be based on a calendar year or a school year.

(c) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall develop appropriate mechanisms to document and report annually to the State Department of Education regarding compliance with the requirements of paragraph (2) of subdivision (a).

SEC. 754. Section 69625 of the Education Code is amended to read:

69625. (a) In order to accomplish the purposes set forth in this article, commencing January 1, 1998, the Controller, the State Department of Education, the State Department of Social Services, or any other state agency receiving funds from the Child Care Development Block Grant Act of 1990 (P.L. 97-35) shall make these funds available to the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* for this program only to the extent this program is incorporated into, and approved in, the state plan established pursuant to subsection (a) of Section 658E of Subchapter C as contained in Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508).

(b) For the purpose of implementing this article, the State Department of Education or designated state agency shall enter into an interagency agreement with the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* to allocate federal funds received annually for purposes of this program and to include funds for the administrative costs.

(c) On or before January 1, 1999, and each year thereafter, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall report to the State Department of Education or designated state agency regarding the federal funding level required to award 100 new grants and all of the renewal grants annually. The State Department of Education or designated state agency shall take these amounts into consideration when developing the state plan referenced in subdivision (a). The State Department of Education or designated state agency shall notify the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* of any revision to the federal funding level as reflected in changes to the Child Care and Development Block Grant State Plan.

(d) This program is contingent upon the receipt of federal funds for the childcare and development block grant for the purposes of implementing this program.

SEC. 755. Section 69626 of the Education Code is amended to read:

69626. (a) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall administer the Child Development Teacher and Supervisor Grant Program. This includes

determining the application procedures and the selection criteria for grant awards.

(b) It is the intent of the Legislature that the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* consult with the Child Development Division of the California Department of Education, postsecondary educational institutions, and child care and development representatives of statewide organizations regarding the development of the program, including the program requirements and selection criteria.

SEC. 756. Section 69627 of the Education Code is amended to read:

69627. Notwithstanding Section 7550.5 of the Government Code, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall report to the Governor and the Legislature by January 1, 2001, on the Child Development Teacher and Supervisor Grant Program to assess the following:

(a) The number of applicants annually.

(b) The number of participants annually.

(c) The rate of compliance with academic and employment requirements.

(d) Participating postsecondary educational institutions.

(e) Needs assessment for program growth based on the eligible pool of applicants.

(f) Participation and success rates for each permit.

(g) The amount of grant funds awarded each year, by institution.

SEC. 757. Section 69740 of the Education Code is amended to read:

69740. Unless the context requires otherwise, the definitions in this section govern the construction of this article.

(a) "Commission" means the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(b) "Eligible education and training programs" means education and training programs approved by the ~~commission~~ *Office of Higher Education and Financial Aid* that lead to eligibility for a license to practice law as a licensed attorney.

(c) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the ~~commission~~ *Office of Higher Education and Financial Aid*.

(d) "Eligible participant" means a licensed attorney who has been admitted to the program and is a resident of this state and who can provide proof of residency in this state.

(e) "Licensed attorney" means an attorney who resides in this state who has successfully passed the California bar examination and has been admitted to practice in this state or has otherwise been licensed to practice law in this state by the State Bar of California.

(f) "Loan repayment" means a loan that is paid in full or in part if the participant renders legal services in this state in a public interest area of the law.

(g) "Participant" means a licensed attorney who has been admitted to the program and has commenced practice as a licensed attorney in this state in a public interest area of the law.

(h) "Program" means the Public Interest Attorney Loan Repayment Program.

(i) "Public interest area of the law" means those areas of the law determined by the ~~commission~~ *Office of Higher Education and Financial Aid*, in consultation with the advisory committee, to serve the public interest, including, but not necessarily limited to, providing direct legal service at a local (1) legal services organization, (2) prosecuting attorney's office, (3) child support agency office, or (4) criminal public defender's office. For the purposes of this article, a "legal services organization" is a legal services provider in California that serves a clientele over 70 percent of whom are low-income persons according to applicable federal income guidelines.

(j) "Required service obligation" means an obligation by the participant to provide legal services in this state in a public interest area of the law as established pursuant to this article.

SEC. 758. Section 69741 of the Education Code is amended to read:

69741. The Public Interest Attorney Loan Repayment Program is established for licensed attorneys who practice or agree to practice in public interest areas of the law in this state. The program shall be administered by the ~~commission~~ *Office of Higher Education and Financial Aid*.

SEC. 759. Section 69741.5 of the Education Code is amended to read:

69741.5. ~~(a)~~ *The Office of Higher Education and Financial Aid is limited to making 3,000 awards of loan assumption annually.* Participants ~~in this program~~ are eligible for a maximum of eleven thousand dollars ($11,000) in loan assistance for four years, as follows:

~~(1)~~

(a) For the first year, two thousand dollars ($2,000) in loan repayment assistance.

~~(2)~~

(b) For the second, third, and fourth years, three thousand dollars ($3,000) in loan repayment assistance for each year.

~~(b) Notwithstanding any other provision of law, in any fiscal year, the commission shall award no more than the number of warrants that are authorized in the annual Budget Act for that fiscal year for the assumption of loans pursuant to this article.~~

SEC. 760. Section 69742 of the Education Code is amended to read:

69742. (a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall establish eligibility criteria for participation in the program based upon need and merit. These criteria shall be based on all of the following, which are set forth in order of importance:

(1) The applicant's need, which shall be based on the applicant's salary, personal resources, and law school debt.

(2) The applicant's commitment to public interest law, which shall be determined by examining the applicant's employment and volunteer history, and taking into consideration a low-income applicant's need to work while in law school.

(3) The applicant's declared interest in practicing in areas of the state where the need for public interest attorneys is high.

(4) The applicant's academic achievements.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* shall adopt initial regulations for the program within one year of the effective date of the initial appropriation funding the program.

SEC. 761. Section 69743.5 of the Education Code is amended to read:

69743.5. The ~~commission~~ *Office of Higher Education and Financial Aid* shall select, from the qualified applicants, the individuals who are eligible to participate in the program. After

each year-long period of full-time, or full-time equivalent, employment in a public interest area of the law, the loan repayment of the eligible participant shall be made to the lender.

SEC. 762. Section 69744 of the Education Code is amended to read:

69744. The ~~commission~~ *Office of Higher Education and Financial Aid* may use the funds appropriated for the program, *including reasonable administrative costs,* for the purpose of loan repayments ~~and to defray reasonable administrative costs~~. The commission shall annually establish the total amount of funding to be awarded for loan repayments. Allocation of funds shall be established based upon the best use of funding for that year, as determined by the ~~commission~~ *Office of Higher Education and Financial Aid*.

SEC. 763. Section 69745 of the Education Code is amended to read:

69745. (a) Loans from both government sources and financial institutions may be repaid by the program. Each participant shall agree to allow the ~~commission~~ *Office of Higher Education and Financial Aid* access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(b) Payments shall be made annually to the lender until the loan is repaid, fulfilled, or until the required service obligation is fulfilled and eligibility discontinues, whichever comes first.

(c) If the participant discontinues practicing in a public interest area of the law, payments against the loans of the participant shall cease to be effective on the date that the participant discontinues service.

SEC. 764. Section 69746 of the Education Code is amended to read:

69746. The ~~commission~~ *Office of Higher Education and Financial Aid* is not responsible for any outstanding payments on principal and interest to any lender once a participant's eligibility expires.

SEC. 765. Section 69761 of the Education Code is amended to read:

69761. (a) The purposes of California's participation in the Federal Family Education Loan Program are as follows:

(1) To ensure that, in meeting their educational costs, a source of loans is available to assist the greatest number of eligible resident students.

(2) To ensure that loans are available to eligible resident students that meet the criterion set forth in paragraph (1), the ~~commission~~ *Office of Higher Education and Financial Aid* is authorized to provide a source of loans to eligible students within and outside California irrespective of their residence or the location of their educational institution, to assist them in meeting educational costs at eligible schools of their choice.

(3) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress in any jurisdiction permitted under the Higher Education Act.

(b) The Legislature finds and declares that subdivision (a), as amended during the 1999 portion of the 1999–2000 Regular Session, reflects the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996, and is therefore declaratory of existing law.

SEC. 766. Section 69761.5 of the Education Code is amended to read:

69761.5. The ~~commission~~ *Office of Higher Education and Financial Aid* shall serve as a state student loan guarantee agency, pursuant to P.L. 94-482, and subsequent federal regulations, including, but not limited to, the following provisions:

(a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall be the designated state agency for receiving any federal funds for administrative costs and payments of insurance obligations.

(b) Educational loans to undergraduate and graduate students, or to their parent or parents, or to undergraduate and graduate students and to their parent or parents, shall not exceed the limits provided in federal law.

(c) Participating educational institutions shall notify lenders and the ~~commission~~ *Office of Higher Education and Financial Aid* of enrollment status changes and current addresses of participating students.

(d) No educational institution shall lend to more than 50 percent of its undergraduate students; this provision may be waived by the

United States Secretary of Education if the limitation creates a hardship for present or prospective students.

(e) A student may receive a loan only if he or she is maintaining satisfactory progress in a course of study pursuant to practices of the institution in which the student is enrolled, and provided the student has not previously defaulted on any student loan. If a student has made satisfactory arrangements to repay a default on a previous student loan, the student may be eligible to receive a loan.

(f) An insurance premium may be charged student borrowers not to exceed the maximum rate allowable, pursuant to federal statutes and regulations.

SEC. 767. Section 69761.7 of the Education Code is amended to read:

69761.7. To promote responsible and timely repayment of guaranteed student loans, the ~~commission~~ *Office of Higher Education and Financial Aid* shall establish a process to ensure regular, annual credit reporting on the repayment status of borrowers whose loans are guaranteed by the ~~commission~~ *office* and whose paper has matured.

SEC. 768. Section 69763 of the Education Code is amended to read:

69763. (a) (1) The ~~commission~~ *Office of Higher Education and Financial Aid* shall administer the Federal Family Education Loan Program as authorized pursuant to this chapter. The ~~commission~~ *Office of Higher Education and Financial Aid* may enter into any contract with the United States Secretary of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, may cooperate with the government of the United States, or any agency or agencies thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The ~~commission~~ *Office of Higher Education and Financial Aid* shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

(2) Loans or loan guarantees issued by the ~~commission~~ *Office of Higher Education and Financial Aid*, irrespective of the domicile of the eligible student or the location of the educational institution attended by the eligible student, prior to the effective date of amendments made to this section during the 1999 portion of the

1999–2000 Regular Session, have been determined by the Legislature to be consistent with the purposes of California's participation in the Federal Family Education Loan Program, and within the authority of the ~~commission~~ *Office of Higher Education and Financial Aid* to administer that program, and consistent with the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996.

(b) The rules and regulations adopted by the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to this section shall include a provision authorizing the ~~commission~~ *office* to impose a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) per violation against any financial or educational institution that violates any applicable law, rule, regulation, limitation, consent agreement, or school or lender agreement, relative to a state financial aid program. The rules and regulations adopted pursuant to this section shall provide all of the following:

(1) No civil penalty shall be imposed against an institution without first affording that institution an opportunity to request a hearing and, if a request for a hearing is made, a hearing shall be held before a representative of the ~~commission~~ *Office of Higher Education and Financial Aid*.

(2) No civil penalty shall be imposed against an institution unless an action against that institution has been initiated pursuant to Section 30302 or 30304 of Title 5 of the California Code of Regulations.

(c) Any moneys derived from the assessment of penalties pursuant to this section shall be deposited into the Student Loan Operating Fund.

SEC. 769. Section 69763.1 of the Education Code is amended to read:

69763.1. (a) If a borrower defaults on a guaranteed student loan and the lender's default claim has been paid, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall fulfill the collection efforts required by federal law, which includes initiating a civil suit against the borrower for repayment of the loan.

(b) After the period specified in federal law for commencing action, the amount of the promissory note, plus interest and costs,

may be collected by the filing of a certificate requesting judgment pursuant to subdivision (c) or by other appropriate civil action.

(c) If the loan principal, interest, and predefault and collection costs are not paid when due, and there is evidence that the borrower does not intend to pay under the terms of the promissory note or promissory notes, the ~~commission~~ *Office of Higher Education and Financial Aid* may file in the office of the Clerk of the Superior Court of Sacramento County, or any other county, a certificate specifying the amount of the loan principal, interest, and predefault and collection costs due, the name and last known address of the individual liable for the amount due, the fact that the ~~commission~~ *office* has complied with all applicable state and federal laws in the computation of the amount due, and a request that judgment be entered against the individual in the amount of the loan principal, interest, and predefault and collection costs specified in the certificate.

(d) Prior to the filing of the certificate, the ~~commission~~ *Executive Director of the Office of Higher Education and Financial Aid* shall, by mail, notify the individual of the amount that is due and of the opportunity for a hearing. If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held in Sacramento County or, if properly requested, the county of residence of the person requesting the hearing. The hearing shall be conducted by a referee who shall submit findings and recommendations to the ~~director of the commission~~ *Executive Director of the Office of Higher Education and Financial Aid*, or an authorized representative, who shall decide the matter. The decision shall be effective upon notice to the interested parties. The ~~director of the commission~~ *Executive Director of the Office of Higher Education and Financial Aid*, or the authorized representative, may rescind the decision and reconsider the matter for good cause shown at any time within three years after the date the disputed loan first became due, or within one year from the hearing, whichever is later. If no hearing is requested within 15 days after mailing the notice required by this subdivision, the certificate required by subdivision (b) may be filed.

SEC. 770. Section 69763.2 of the Education Code is amended to read:

69763.2. (a) The clerk, immediately upon the filing of the certificate specified in Section 69763.1, shall enter a judgment for

the people of the State of California against the individual in the amount of the loan principal, interest, and predefault and collection costs listed on the certificate. ~~The~~ *On or before June 30, 2005, the* clerk may file the judgment in the book entitled "California Student Aid Commission ~~Judgments."~~ *Judgments" and thereafter may file the judgment in the book entitled "Office of Higher Education and Financial Judgments.*"

(b) Execution shall issue upon the judgment specified in subdivision (a) upon request of the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* in the same manner as execution may issue upon other judgments as prescribed in the Code of Civil Procedure.

(c) At least 10 days before executing any writ to collect, the ~~commission~~ *Office of Higher Education and Financial Aid* shall send notice of the intent to execute upon a writ to the borrower and to any cosigners, by certified mail, to the most recent addresses maintained in the files of the ~~commission~~ *office*. Any person receiving the notice of the intent to execute upon a writ may request a hearing to contest the existence or the amount of the writ. At the request of the individual, the ~~commission~~ *Office of Higher Education and Financial Aid* shall conduct a hearing pursuant to Section 69763.1, at which it shall be determined whether the loan principal, interest, and predefault and collection costs in the amount claimed by the ~~commission~~ *office* are due and whether the individual named on the certificate is liable for the amount. If no hearing is requested, the execution shall be commenced for the garnishment of wages, the attachment of property, or other legal collection action.

SEC. 771. Section 69763.3 of the Education Code is amended to read:

69763.3. At any time before wages are garnished or a lien is placed on property, a borrower may pay the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* the amount of the recorded judgment, plus costs. If that payment is made, wage garnishment or the attachment of property shall not commence. The payment shall not constitute a waiver of the right to a hearing.

SEC. 772. Section 69763.4 of the Education Code is amended to read:

69763.4. If the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, or an authorized agent, has reasonable cause to believe that a lien on property may be jeopardized within the 10-day notice-of-intent period, the lien may be filed without prior notice. The ~~commission~~ *Office of Higher Education and Financial Aid* shall provide notice of the attachment of property by lien to the owner and to any other person known to be claiming an interest in the property, within 48 hours after filing, excluding Saturdays, Sundays, and the holidays specified in Section 6700 of the Government Code. Any hearing to contest the lien shall be requested within 10 days following transmittal of the notice.

SEC. 773. Section 69764 of the Education Code is amended to read:

69764. In the event that the amount of loans applied for under this article exceeds the amount of the loans that may be guaranteed pursuant to this article, the ~~commission~~ *Office of Higher Education and Financial Aid* may establish a system of priorities for the approval of loans.

SEC. 774. Section 69765 of the Education Code is amended to read:

69765. (a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall guarantee any student loan made pursuant to this article in the amount specified in federal statutes and regulations.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* shall establish the ratio of reserve funds to loans outstanding.

SEC. 775. Section 69766 of the Education Code is amended to read:

69766. (a) The Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby created in the State Treasury. On January 1, 2000, the State Guaranteed Loan Reserve Fund shall cease to exist, and funds deposited, or required to be deposited in that fund, shall be transferred to the Federal Student Loan Reserve Fund or to the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law.

(b) All money received for the purposes of this article from federal, state or local governments, including any money deposited in the State Guaranteed Loan Reserve Fund, or from other private

or public sources, shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law. Funds deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund are not part of the General Fund, as defined in Section 16300 of the Government Code. No moneys from the General Fund shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund.

(c) The contents of the Federal Student Loan Reserve Fund are federal funds, administered in accordance with federal laws and regulations. The contents of the Student Loan Operating Fund are state funds within the custody and control of the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(d) Notwithstanding Section 13340 of the Government Code, all moneys deposited in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby continuously appropriated, without regard to fiscal years, for purposes of this article. The continuous appropriation made by this section shall be available to assume the obligation under any outstanding budget act appropriation from the State Guaranteed Loan Reserve Fund as it existed prior to January 1, 2000. On or after the operative date of Article 2.4 (commencing with Section 69521), the expenditure of funds from the Student Loan Operating Fund is subject to the limitations set forth in Sections 69522 and 69526.

(e) The total amount of all outstanding debts, obligations, and liabilities that may be incurred or created under this article or under Article 2.5 (commencing with Section 69522), including any obligation to repay to the United States any funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof or amendments thereto, or any similar act of Congress, is limited to the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund, and the state shall not be liable to the United States, or to any other person or entity, beyond the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund for any debts, obligations, and liabilities.

SEC. 776. Section 69766.1 of the Education Code is amended to read:

69766.1. (a) Notwithstanding Section 13340 of the Government Code, in addition to the purposes for which funds are

appropriated pursuant to Section 69766, there is hereby continuously appropriated from the Federal Student Loan Reserve Fund and the Student Loan Operating Fund to the ~~commission~~ *Office of Higher Education and Financial Aid*, the amount of funds necessary to make payments for the purchase of defaulted loans.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the Student Loan Operating Fund for transfer to the Federal Student Loan Reserve Fund, all federal reinsurance payments received on defaulted student loans and deposited in the Student Loan Operating Fund.

(c) The appropriation authorized by this section shall be operative only if the annual Budget Act for the fiscal year is not chaptered on or before July 15, and shall not exceed the amount deemed by the ~~commission~~ *Office of Higher Education and Financial Aid* to be required by federal law or regulation. The ~~commission~~ *Office of Higher Education and Financial Aid* shall notify the Joint Legislative Budget Committee of the amount of any payments issued pursuant to this section.

SEC. 777. Section 69768 of the Education Code is amended to read:

69768. (a) The funds in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund shall be paid out by the State Treasurer on warrants drawn by the Controller, or through a transfer between the Federal Student Loan Reserve Fund and the Student Loan Operating Fund, and requisitioned by the ~~commission~~ *Office of Higher Education and Financial Aid* in carrying out the purposes of this article and the federal act.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* is hereby authorized to make advance payments from the Student Loan Operating Fund to the auxiliary organization for services rendered to the ~~commission~~ *office* under Article 2.5 (commencing with Section 69522). The ~~commission~~ *Office of Higher Education and Financial Aid* is hereby authorized to make advance payments from the Student Loan Operating Fund to the auxiliary organization for the purpose of providing funding necessary for other permitted student financial aid activities approved by the ~~commission~~ *office* pursuant to a business plan adopted by the auxiliary organization and approved by the ~~commission~~ *office*, provided the ~~commission~~ *office* first provides the Director of Finance and the Joint Legislative Budget Committee

with at least 45 days advance notice in writing that includes the amount proposed to be transferred and a description of the approved student financial aid activities and related expenditures to be undertaken. If the Director of Finance or the Joint Legislative Budget Committee notifies the ~~commission~~ *Office of Higher Education and Financial Aid* regarding issues of concern with the proposed transfer of funds, the ~~commission~~ *office* shall convene a meeting of appropriate representatives of the ~~commission~~ *office*, the Department of Finance, and the Legislature to resolve those issues. Notwithstanding any other law, advance payments to the auxiliary organization and any fees charged by the auxiliary organization for services rendered to the ~~commission~~ *Office of Higher Education and Financial Aid* pursuant to an operating agreement may be deposited with a private financial institution.

SEC. 778. Section 69769 of the Education Code is repealed.

~~69769. The commission shall establish a Loan Advisory Council. The Loan Advisory Council shall be composed of 17 members, appointed by the commission, composed of representatives of students, postsecondary educational institutions, eligible lenders, and participating secondary markets.~~

SEC. 779. Section 69769.3 of the Education Code is amended to read:

69769.3. (a) The ~~Loan Advisory Council established pursuant to Section 69769 shall be composed of members appointed from~~ *Office of Higher Education and Financial Aid shall consult with* the following groups *regarding the duties of the office under the Federal Family Education Loan Program*:

(1) ~~Four representatives of the~~ *The* lending community participating in the Federal Family Education Loan Program.

(2) ~~One representative each from~~ *Representatives of* the University of California, the California State University, the California Community Colleges, a private nonprofit postsecondary education institution, and a private for-profit postsecondary education institution.

(3) ~~One~~ *A* representative ~~from~~ *of* the California Association of Student Financial Aid Administrators.

(4) ~~Five student representatives~~ *Students* from the same postsecondary segments listed in paragraph (2). ~~In no event shall a student representative be appointed to serve simultaneously as~~

~~the representative of more than one of these five postsecondary groups.~~

(5) ~~One representative from a~~ *The community participating in the* secondary market participating in the Federal Family Education Loan Program.

(6) ~~One~~ *A* representative ~~from~~ *of* the California Lenders for Education Association.

(b) The ~~representatives appointed by the commission~~ *persons with whom the Office of Higher Education and Financial Aid consults* pursuant to subdivision (a) shall be selected by the ~~commission~~ *office* from lists provided to ~~its chair~~ *the office* by each group described in that subdivision.

SEC. 780. Section 69769.5 of the Education Code is repealed.

~~69769.5. The Loan Advisory Council shall review the activities and policies of the Federal Family Education Loan Program and shall regularly advise the commission of its findings and recommendations. The Loan Advisory Council may request information and data that it deems appropriate from the Student Aid Commission with respect to the Federal Family Education Loan Program or any other loan program administered by the commission.~~

SEC. 781. Section 69769.7 of the Education Code is repealed.

~~69769.7. (a) The Loan Advisory Council shall annually elect a chair and a vice chair from its membership. Representatives who serve on, or are employed or retained by, the commission, and the nonvoting representative appointed by the United States Department of Education, if any, are ineligible for election to these positions.~~

~~(b) The chair of the Loan Advisory Council shall have the authority, in consultation with the chair of the commission, to convene meetings of the council. The chair shall also direct each council meeting and shall regularly present oral and written reports to the commission regarding the advice of the council. The vice chair of the Loan Advisory Council shall assume these responsibilities in the absence of the chair.~~

SEC. 782. Section 69772 of the Education Code is amended to read:

69772. The ~~commission~~ *Office of Higher Education and Financial Aid* shall annually report on the numbers of students participating in the program, total loan volume, and the

postsecondary educational institutions in which participating students are enrolled.

SEC. 783. Section 69774 of the Education Code is amended to read:

69774. (a) The ~~commission~~ *Office of Higher Education and Financial Aid* shall provide, with each application form for the Federal Family Education Loan Program a notice to the student informing him or her that, for purposes of collecting on a defaulted loan, the ~~commission~~ *office* is entitled to seek employment, wage, and other information from the Employment Development Department on any person who defaults on a guaranteed student loan.

(b) A common application form may be utilized for student loans in compliance with the program eligibility and financial forms specified in Section 69534.1.

SEC. 784. Section 69775 of the Education Code is amended to read:

69775. The ~~commission~~ *Office of Higher Education and Financial Aid* shall develop and distribute in cooperation with postsecondary educational institutions and private lenders, simple, common consumer information for prospective student borrowers.

SEC. 785. Section 69776 of the Education Code is amended to read:

69776. The ~~commission~~ *Office of Higher Education and Financial Aid* may contract for all or part of administrative support services.

SEC. 786. Section 69776.5 of the Education Code is amended to read:

69776.5. The ~~commission~~ *Office of Higher Education and Financial Aid* may enter into contracts with a public agency or a private entity to improve the processing and distribution of guaranteed student loan applications through the use of electronic networks and unified ~~data bases~~ *databases*.

SEC. 787. Section 69777 of the Education Code is amended to read:

69777. The ~~commission~~ *Office of Higher Education and Financial Aid* shall encourage private lenders to increase participation in the guaranteed student loan program.

SEC. 788. Section 69951 of the Education Code is amended to read:

69951. The California State Work-Study Program is hereby created to provide eligible college and university students with the opportunity to earn money to help defray their educational costs, while gaining valuable experience in educationally beneficial or career-related employment. The California State Work-Study Program shall be administered by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

SEC. 789. Section 69952 of the Education Code is amended to read:

69952. (a) Any postsecondary educational institution currently eligible to participate in state-funded student financial aid programs pursuant to this chapter or in federal financial aid programs shall be eligible to be selected to participate in the California State Work-Study Program.

(b) Prior to participating in the program, each institution shall sign an institutional agreement with the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, acknowledging its willingness to administer the program pursuant to this article and program regulations and guidelines adopted for that purpose by the ~~commission~~ *office*. The agreement shall include the procedures that the institution shall use to ensure that each work-study position is related to the student's course of study or career interests.

(c) Each participating institution shall be required, as a condition of participation in the program, to comply with ~~such~~ *the* auditing or other fiscal reporting requirements ~~as~~ *established by* the ~~commission may establish~~ *Office of Higher Education and Financial Aid*. These requirements shall be applied by the ~~commission~~ *Office of Higher Education and Financial Aid* so as to ensure that no payments received by any private institution pursuant to this article are applied to any sectarian or denominational purpose, or to the general aid or support of the institution.

SEC. 790. Section 69954 of the Education Code is amended to read:

69954. (a) All of the following entities shall be eligible to employ students participating in the California State Work-Study Program:

(1) Public postsecondary educational institutions.

(2) Public schools operated by school districts, county superintendents of schools, the ~~Department of the Youth Authority~~ *Division of Juvenile Justice*, or the State Department of Education.

(3) Nonsectarian, nonpolitical organizations or corporations, whether nonprofit or profit-seeking enterprises licensed to conduct business in California.

(4) Out-of-state employers licensed to conduct business in their home state, subject to the prior approval of the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(b) Private postsecondary educational institutions shall not be eligible to employ students participating in the California State Work-Study Program.

SEC. 791. Section 69958 of the Education Code is amended to read:

69958. (a) Potential work-study positions may be located by the institution or by eligible students in cooperation with the institution. Each position located shall be critically reviewed by the appropriate student financial aid and experiential education personnel to determine whether it satisfies all the conditions specified in Section 69960. To assist the institution in assessing the position, the employer shall submit a written statement to the institution that provides all of the following information:

(1) The total number of positions available.

(2) A job description of each available position, including the suggested rate of pay.

(3) The skills required of the prospective work-study employee.

(4) The educational benefits provided by the position.

(b) Once the institution has approved the work-study position, the employer and the institution, acting as the authorized agent of the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, shall execute a written agreement that confirms the employer's eligibility to participate in the program and its willingness to comply with all program requirements, and specifies the responsibilities of each of the parties. The agreement shall be subject to annual renewal by mutual agreement of the institution and the employer.

(c) Following execution of the agreement pursuant to subdivision (b), the employer may interview prospective work-study employees. The institution shall provide the employer and each applicant for the work-study position with adequate information

to facilitate a proper placement. Provided that the priorities specified in Section 69959 have been met, the employer may indicate his or her hiring preferences. An employer shall not discriminate between applicants on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code, or subject any applicant to any other discriminatory practices prohibited by state or federal law.

SEC. 792. Section 69959 of the Education Code is amended to read:

69959. (a) The following priorities shall be followed at the time of job referral and placement:

(1) The primary objective shall be to place a student in an educationally beneficial position that relates to the student's course of study, career objective, or the exploration of career objectives. Preference in awarding work-study positions shall be given to those students able to locate employment related to their academic program or potential career.

(2) The program shall include and emphasize placements for students with off-campus, private, profit-making employers.

(3) The program shall also include, pursuant to Section 69969.5, work-study positions to offer tutorial instruction to pupils in various pupil outreach activities, which may include, but need not be limited to, tutoring in core courses, pupil mentoring, curriculum development, and academic counseling during or after regular school hours.

(b) It is the intent of the Legislature that each participating institution shall strive to place a significant number of students with off-campus private sector employers and public school districts. In evaluating an institution's progress in achieving placements with off-campus employers, the ~~commission~~ *Office of Higher Education and Financial Aid* shall take into consideration the proximity of the campus to private sector jobs, local economic conditions, and other factors which may affect an institution's ability to place students in off-campus jobs.

SEC. 793. Section 69965 of the Education Code is amended to read:

69965. (a) The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, in consultation with the advisory

committee designated pursuant to Section 69966, shall select postsecondary educational institutions to participate in the program. In evaluating applications from educational institutions, the ~~commission~~ *Office of Higher Education and Financial Aid* shall primarily consider the following factors:

(1) Administrative capability.

(2) Ability to utilize available state funds.

(b) The ~~commission~~ *Office of Higher Education and Financial Aid* shall also consider:

(1) Geographical distribution of participating institutions.

(2) Segmental representation.

SEC. 794. Section 69966 of the Education Code is amended to read:

69966. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall administer the California State Work-Study Program in consultation with an advisory committee. The membership of the advisory committee, which may be an existing advisory committee established by the ~~commission~~ *Office of Higher Education and Financial Aid*, shall be representative of, but need not be limited to, financial aid and student employment administrators from each segment of postsecondary education, students, public schools, employers, the ~~California Postsecondary Education Commission~~ *office*, and experiential education personnel.

SEC. 795. Section 69967 of the Education Code is amended to read:

69967. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall do all of the following:

(a) Adopt any necessary rules, regulations, and guidelines to assist participating employers and institutions to administer the program.

(b) Ensure that student placements are consistent with the objectives stated in Section 69959.

(c) Monitor institutional expenditures to ensure proper allocation and utilization of work-study funds.

(d) At the close of each fiscal year, compile data regarding the population served by the program during that fiscal year.

(e) Review the administrative practices of each participating institution to ensure compliance with program requirements.

(f) Ensure that appropriate audits of the program are conducted.

SEC. 796. Section 69969 of the Education Code is amended to read:

69969. (a) It is the intent of the Legislature that funding for the purposes of the California State Work-Study Program be appropriated in the annual Budget Act.

(b) Available funds shall be allocated to each participating institution by the ~~commission~~ *Office of Higher Education and Financial Aid*, including a minimum administrative allowance for each institution.

(c) The ~~commission~~ *Office of Higher Education and Financial Aid* may provide a supplementary administrative allowance to institutions that reflects the additional costs of placing students with off-campus, private, profit-making employers and public school districts.

SEC. 797. Section 81706 of the Education Code is amended to read:

81706. The Board of Governors of the California Community Colleges, in consultation with the Secretary for Education, the Department of General Services, the Energy Resources, Conservation and Development Commission, ~~Seismic Safety Commission,~~ community college district representatives, and industry representatives, develop guidelines for design-build projects. The guidelines shall be developed no later than June 30, 2003.

SEC. 798. Section 89347 of the Education Code is amended to read:

89347. The ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall provide outreach services and technical assistance to foster youth at the two grade levels designated jointly by the California State University and the California Community Colleges. The State Department of Social Services and county welfare departments shall, in coordination with the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, communicate with foster youth at the two grade levels designated jointly by the California State University and the California Community Colleges in order to facilitate the ~~Student Aid Commission's~~ *office's* outreach and technical assistance efforts for those prospective students.

SEC. 799. Section 89529.15 of theEducation Code is amended to read:

89529.15. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after October 1, 1976.

(2) A permanent or probationary part-time or intermittent employee of the trustees with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(3) In addition to those eligible under paragraph (1), an employee of the trustees appointed half-time or more for one year of service or one academic year, as defined by the trustees, or more, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(4) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a participant in the optional retirement program pursuant to Chapter 5.5 (commencing with Section 89600), provided that he or she would otherwise be eligible to participate in the Public Employees' Retirement System except for the election to participate in the optional retirement program.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purpose of this article,

two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California ~~Unemployment Insurance Appeals~~ *Employment and Benefits* Board.

SEC. 800. Section 94155 of the Education Code is amended to read:

94155. ~~On~~ *Notwithstanding Section 7550.5 of the Government Code, on* or before March 31 in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The authority shall also consult with the ~~California Postsecondary Education Commission and the Student Aid Commission~~ *Office of Higher Education and Financial Aid* with respect to the need for additional financing of student loan projects.

SEC. 801. Section 5002 of the Family Code is amended to read:

5002. (a) In an action pursuant to this chapter prosecuted by the local child support agency or the Attorney General that is initiated by service of summons and petition or other comparable pleading, the respondent may also be served with a proposed judgment consistent with the relief sought in the petition or other comparable pleading. If the respondent's income or income history is unknown to the local child support agency, the local child support agency may serve a form of proposed judgment with the petition and other documents on the respondent that shall inform the respondent that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* pursuant to Section 1182.11 of the Labor Code, unless information concerning the respondent's income is provided to the court. The respondent shall also receive notice that the proposed judgment will become effective if he or she fails to file a response with the court within 30 days after service.

(b) In any action pursuant to this chapter in which the judgment was obtained pursuant to presumed income, as set forth in this

section, the court may set aside that part of the judgment or order concerning the amount of child support to be paid on the grounds specified and in the manner set forth in Section 17432.

SEC. 802. Section 17400 of the Family Code is amended to read:

17400. (a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and, if appropriate, enforce spousal support orders if the child is receiving public assistance, including Medi-Cal, and, if requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) (1) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

(2) Notwithstanding any other law, and except for pleadings or documents required to be signed under penalty of perjury, a local child support agency may substitute original signatures with any form of electronic signatures, including, but not limited to, typed, digital, or facsimile images of signatures, digital signatures, or other computer-generated signatures, on pleadings filed for the purpose of establishing, modifying, or enforcing paternity, child support, or medical support. Any substituted signature used by a local child support agency shall have the same effect as an original signature, including, but not limited to, the requirements of Section 128.7 of the Code of Civil Procedure.

(c) Actions brought by the local child support agency to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The local child support agency's responsibility applies to spousal support only if the spousal support obligation has been reduced to

an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(d) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* pursuant to Section 1182.11 of the Labor Code unless information concerning the support obligor's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. The answer form shall direct the defendant to file the completed income and expense declaration or simplified financial statement with the answer, but shall state that the answer will be accepted by a court without the income and expense declaration or simplified financial statement.

(C) The clerk of the court shall accept and file answers, income and expense declarations, and simplified financial statements that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the local child support agency or the Attorney General in all cases brought under this section or Section 17404.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 17432 of this code or Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the local child support agency with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the local child support agency or the superior court clerk.

(e) In any action brought or enforcement proceedings instituted by the local child support agency pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the local child support agency at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(f) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance.

There shall be prominently displayed in every public area of every office of the agencies established by this section a notice, in clear and simple language prescribed by the Director of Child Support Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals, whether or not they are recipients of public assistance.

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order has the same force and effect as a like or similar order under this code.

(2) The local child support agency shall file a motion for an order for temporary support within the following time limits:

(A) If the defendant is the mother, a presumed father under Section 7611, or any father if the child is at least six months old when the defendant files his or her answer, the time limit is 90 days after the defendant files an answer.

(B) In any other case in which the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

(3) If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

(4) If the local child support agency fails to file a motion for an order for temporary support within the time limits specified in this section, the local child support agency shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the date the motion was filed, or, if no motion is filed, when a final judgment is entered.

(5) Except as provided in Section 17304, nothing in this section prohibits the local child support agency from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section

pursuant to plans of cooperation with the departments approved by the Department of Child Support Services.

(6) Nothing in this section otherwise limits the ability of the local child support agency from securing and enforcing orders for support of a spouse or former spouse as authorized under any other law.

(h) As used in this article, "enforcing obligations" includes, but is not limited to, all of the following:

(1) The use of all interception and notification systems operated by the department for the purpose of aiding in the enforcement of support obligations.

(2) The obtaining by the local child support agency of an initial order for child support that may include medical support or that is for medical support only, by civil or criminal process.

(3) The initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance.

(4) The response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order if the child or children are residing with the obligee parent and the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(5) The referral of child support delinquencies to the Franchise Tax Board under subdivision (c) of Section 17500 in support of the local child support agency.

(i) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(j) (1) The local child support agency is the public agency responsible for administering wage withholding for current support for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(2) Nothing in this section limits the authority of the local child support agency granted by other sections of this code or otherwise granted by law.

(k) In the exercise of the authority granted under this article, the local child support agency may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under this code, or other proceeding in which child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the local child support agency may request any relief that is appropriate that the local child support agency is authorized to seek.

(*l*) The local child support agency shall comply with all regulations and directives established by the department that set time standards for responding to requests for assistance in locating noncustodial parents, establishing paternity, establishing child support awards, and collecting child support payments.

(m) As used in this article, medical support activities that the local child support agency is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(n) (1) Notwithstanding any other law, venue for an action or proceeding under this division shall be determined as follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and Institutions Code.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(o) The local child support agency of one county may appear on behalf of the local child support agency of any other county in an action or proceeding under this part.

SEC. 803. Article 5 (commencing with Section 14380) of Chapter 3 of Division 5 of the Financial Code is repealed.

SEC. 804. Section 2192 of the Fish and Game Code is amended to read:

2192. Notwithstanding Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, Section 11356 of the Government Code, or any other provision of law, regulations of the commission relating to the construction, fixtures, and other minimum caging standards adopted by the commission for the confinement of live wild animals pursuant to this chapter are not building standards subject to the approval of the ~~State Building Standards Commission~~ *Department of General Services*.

SEC. 805. Section 2765 of the Fish and Game Code is amended to read:

2765. The ~~California Water Commission~~ *Department of Water Resources*, 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 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. 806. Article 3 (commencing with Section 54442) of Chapter 2 of Division 20 of the Food and Agricultural Code is repealed.

SEC. 807. Section 54451.5 of the Food and Agricultural Code is repealed.

~~54451.5. A conciliation service shall be appointed by the department if the parties cannot agree on a conciliator.~~

SEC. 808. Section 4450 of the Government Code is amended to read:

4450. (a) It is the purpose of this chapter to ensure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and usable by persons with disabilities.

(b) The State Architect shall develop and submit proposed building standards to the ~~California Building Standards Commission~~ *Department of General Services* for approval and adoption pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and shall develop other regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities. The regulations and building standards relating to access for persons with disabilities shall be consistent with the standards for buildings and structures that are contained in pertinent provisions of the latest edition of the selected model code, as adopted by the ~~California Building Standards Commission~~ *Department of General Services*, and these regulations and building standards shall contain additional requirements relating to buildings, structures, sidewalks, curbs, and other related facilities the State Architect determines are necessary to assure access and usability for persons with disabilities. In developing and revising these additional requirements, the State Architect shall consult with the Department of Rehabilitation, the League of California Cities, the California State Association of Counties, and at least one private organization representing and comprised of persons with disabilities.

(c) In no case shall the State Architect's regulations and building standards prescribe a lesser standard of accessibility or usability than provided by the Accessibility Guidelines prepared by the federal Access Board as adopted by the United States Department of Justice to implement the Americans with Disabilities Act of 1990 (Public Law 101-336).

SEC. 809. Section 4451 of the Government Code is amended to read:

4451. (a) Except as otherwise provided in this section, this chapter shall be limited in its application to all buildings and facilities stated in Section 4450 intended for use by the public, with any reasonable availability to, or usage by, persons with disabilities, including all facilities used for education and instruction, including the University of California, the California State University, and the various community college districts, that are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state.

(b) When required by federal or state law, buildings, structures, and facilities, or portions thereof, that are leased, rented, contracted, sublet, or hired by any municipal, county, or state division of government, or special district shall be made accessible to, and usable by, persons with disabilities.

(c) Except as otherwise provided by law, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall conform to the building standards published in the California Building Standards Code relating to access for persons with disabilities and the other regulations adopted pursuant to Section 4450 that are in effect on the date of an application for a building permit. With respect to buildings, structures, sidewalks, curbs, and related facilities not requiring a building permit, building standards published in the California Building Standards Code relating to access for persons with disabilities and other regulations adopted pursuant to Section 4450, and in effect at the time construction is commenced shall be applicable.

(d) Until building standards are published in the California Building Standards Code and other regulations are developed by the State Architect and adopted by the ~~California Building Standards Commission~~ *Department of General Services* pursuant to Section 4450, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall meet or exceed the requirements of Title III of Subpart D of the federal Americans with Disabilities Act of 1990.

(e) This chapter shall apply to temporary or emergency construction as well as permanent buildings.

(f) Administrative authorities, as designated under Section 4453, may grant exceptions from the literal requirements of the building standards published in the California Building Standards Code relating to access for persons with disabilities, or the other regulations adopted pursuant to this section, or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection that meets or exceeds the requirements under federal law are thereby secured.

(g) The Department of General Services shall develop, as appropriate, regulations to ensure that braille, tactile, or visual signage for elevators, rooms, spaces, functions, and directional information is installed as required by Section 4450 and shall develop and implement an effective training program to ensure compliance with all disability access requirements.

SEC. 810. Section 4459 of the Government Code is amended to read:

4459. (a) The State Architect shall develop amendments for building regulations and submit them to the ~~California Building Standards Commission~~ *Department of General Services* for adoption to ensure that no accessibility requirements of the California Building Standards Code shall be enhanced or diminished except as necessary for (1) retaining existing state regulations that provide greater accessibility and features, or (2) meeting federal minimum accessibility standards of the federal Americans with Disabilities Act of 1990 as adopted by the United States Department of Justice, the Uniform Federal Accessibility Standards, and the federal Architectural Barriers Act.

(b) The Department of General Services shall use fees deposited in the Disability Access Account established in Section 4454 for the purposes identified in this chapter. The department shall include the cost of carrying out the responsibilities identified in this chapter as part of the plan review costs in determining fees.

(c) Notwithstanding any other provision of law, the application and scope of accessibility regulations in the California Building Standards Code shall not be less than the application and scope of accessibility requirements of the federal Americans with Disabilities Act of 1990 as adopted by the United States

Department of Justice, the Uniform Federal Accessibility Standards, and the federal Architectural Barriers Act.

SEC. 811. Section 4560 of the Government Code is amended to read:

4560. (a) The Legislature finds and declares that there is a substantial need to provide adequate child care facilities for state employees.

(b) When the state constructs, acquires, or receives as a gift any office building that can accommodate 700 or more state employees, or when additions, alterations, or repairs are made to any existing state-owned office building that can accommodate 700 or more state employees, and the additions, alterations, or repairs both change and affect the use of 25 percent of the net square feet area of the building and include the addition to, alteration of, or repair of the first floor, adequate space shall be designated within the building to meet the child care needs of those employees, if a review of those employees slated to occupy the new or renovated building shows sufficient need for child care services for 30 or more children. The review shall be conducted by the Department of General Services ~~and the Child Development Programs Advisory Committee established pursuant to Section 8286 of the Education Code~~.

(c) The Director of General Services may secure space in any adequate facility for the same purposes if funds for the offsite facilities are made available and the director determines that any of the following conditions exist:

(1) All other physical requirements controlling the development of the child care facilities within the office building cannot be utilized.

(2) It is more ~~cost-efficient~~ *cost efficient* for the state to provide for equivalent child care facilities within a reasonable distance of the place of employment.

(3) Locating the child care center within a reasonable distance offsite would provide an enhanced facility for the children or would mitigate security concerns.

(d) Existing state office buildings, at the discretion of the Director of General Services, may be retrofitted to accommodate a child care facility. State funds required for the retrofitting shall be subject to regular budgetary procedures and approvals.

(e) Space designed within a state-owned office building for the child care facility shall comply with the prevailing local and state safety building codes for child care facilities.

(f) The indoor area shall not exceed 2,100 square feet, nor be less than that required to accommodate 30 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices. Outdoor play area space shall correspond with the indoor play area as described in Title 22 of the California Code of Regulations.

(g) Utilization of the space shall be subject to terms and conditions set forth by the Director of General Services. The terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The space shall be made available to employees who wish to establish child care facilities at a rate to be established by the Director of General Services based upon the actual cost to the state, the average cost of state-owned space in the area, or the statewide average cost of state-owned space, whichever is less. If, however, the director determines that a lower rent must be charged to ensure the viability of a child care facility, the director may charge a lower rate.

(h) (1) The department or departments occupying the building shall notify the employee-occupants in writing of the availability of space to be used for a child care facility no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs to an existing state-owned building, and the additions, alterations, or repairs that both change and affect the use of 25 percent of the net square feet area of the building and include the addition to, alteration of, or repair of the first floor. If, within 30 days after full occupancy of a new office building or 30 days after the completion of additions, alterations, or repairs to an existing state-owned office building, the employee-occupants so desiring have not filed an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care center, deposited two months' rent in a commercial or savings account, and entered into a contract with the Department of General Services, the space may be used for any other purpose, as long as no permanent alteration of the space occurs. Other purposes may include, but are not limited to, conference rooms, storage areas, or offices. The space for child care shall be held for the employee-occupants' nonprofit

corporation only as long as they pay the monthly rent and meet the terms set forth in the contract. Payment of rent shall commence 30 days after full occupancy of a new office building or 30 days after completion of additions, alterations, or repairs, as specified in this section.

(2) If, at a later date, the employee-occupants so desiring (A) file an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care facility, (B) deposit two months' rent in a commercial or savings account, and (C) notify the Director of General Services of those actions, then the space shall be reconverted for child care purposes within 180 days of the notice.

(i) Children from families in which at least one parent or guardian is a state employee shall be given priority admission over other children to the child care facility.

(j) When a child care center within a state-owned office building has been operative for five years, the Director of General Services shall assess the child care needs of the state employees using the center and the office space needs of the building within which the center is located. If the assessment demonstrates a greater need for office space than for child care, the Director of General Services may close the child care center. Ninety days' written notice of the closure shall be given to the director or head teacher of the center.

(k) This section does not apply to buildings that provide care or 24-hour residential care for patients, inmates, or wards of the state, such as state hospitals and correctional facilities.

SEC. 812. Section 6276.48 of the Government Code is amended to read:

6276.48. Wards and dependent children, release of description information about minor escapees, Section 828, Welfare and Institutions Code.

Wards, petition for sealing records, Section 781, Welfare and Institutions Code.

Welfare, statewide automated system work plan, confidentiality of data on individuals, Section 10818, Welfare and Institutions Code.

Wills, confidentiality of, Section 6389, Probate Code.

Winegrowers of California commission, confidentiality of producers' or vintners' proprietary information, Sections 74655 and 74955, Food and Agricultural Code.

~~Worker's Compensation~~

Employment and Benefits Appeals Board, injury or illness report, confidentiality of, Section 6412, Labor Code.

Workers' compensation insurance, dividend payment to policyholder, confidentiality of information, Section 11739, Insurance Code.

Workers' compensation insurance fraud reporting, confidentiality of information, Sections 1877.3 and 1877.4, Insurance Code.

Workers' compensation insurer or rating organization, confidentiality of notice of noncompliance, Section 11754, Insurance Code.

Workers' compensation insurer, rating information, confidentiality of, Section 11752.7, Insurance Code.

Workers' compensation, notice to correct noncompliance, Section 11754, Insurance Code.

Workers' compensation, release of information to other governmental agencies, Section 11752.5, Insurance Code.

Workers' compensation, self-insured employers, confidentiality of financial information, Section 3742, Labor Code.

Workplace inspection photographs, confidentiality of, Section 6314, Labor Code.

~~Youth Authority,~~

Juvenile Justice Division of the Department of Corrections and Rehabilitation, parole revocation proceedings, confidentiality of, Section 1767.6, Welfare and Institutions Code.

~~Youth Authority,~~

Juvenile Justice Division of the Department of Corrections and Rehabilitation, release of information in possession of Youth Authority for offenses under Sections 676, 1764.1, and 1764.2, Welfare and Institutions Code.

~~Youth Authority,~~

Juvenile Justice Division of the Department of Corrections and Rehabilitation, records, policies, and procedures, Section 1905, Welfare and Institutions Code.

~~Youth Authority,~~

Juvenile Justice Division of the Department of Corrections and Rehabilitation, records, disclosure, Section 1764, Welfare and Institutions Code.

~~Youth Authority~~

Juvenile Justice Division of the Department of Corrections and Rehabilitation parolee, disclosure of personal information in revocation proceedings, Section 1767.6, Welfare and Institutions Code.

Youth service bureau, confidentiality of client records, Section 1905, Welfare and Institutions Code.

SEC. 813. Chapter 3.3 (commencing with Section 8255) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 814. Article 1 (commencing with Section 8260) of Chapter 3.5 of Division 1 of Title 2 of the Government Code is repealed.

SEC. 815. Section 8587.7 of the Government Code is amended to read:

8587.7. (a) The Office of Emergency Services, in cooperation with the State Department of Education~~,~~ *and* the Department of General Services, ~~and the Seismic Safety Commission,~~ shall develop an educational pamphlet for use by grades K-14 personnel to identify and mitigate the risks posed by nonstructural earthquake hazards.

(b) The office shall print and distribute the pamphlet to the governing board of each school district and community college district in the state, along with a copy of the current edition of the office's school emergency response publication. The office shall also make the pamphlet or the current edition of the office's school emergency response publication available to a private elementary or secondary school upon request.

(c) The office, as soon as feasible, shall make the pamphlet and the current edition of the office's school emergency response publication available by electronic means, including, but not limited to, the Internet.

SEC. 816. Section 8601 of the Government Code is amended to read:

8601. (a) Using existing budgetary resources, the ~~Seismic Safety Commission~~ *Department of General Services*, in consultation with the Director of Emergency Services, shall establish an urban search and rescue emergency response advisory committee, which, in addition to the ~~commission~~ *representatives of the Department of General Services*, may include representatives of organizations including, but not limited to, at the ~~commission chairperson's~~ *Director of General Services'* discretion, the California Fire Chiefs Association, the Fire Districts Association

of California, the California Professional Firefighters, the California Department of Forestry Firefighters, the California State Firefighters Association, Inc., the California Police Chiefs' Association, the California Police Officers Association, the California State Sheriffs' Association, and the Peace Officer Research Association of California.

(b) The advisory committee shall prepare and submit to the ~~commission chairperson~~ *Director of General Services*, on or before September 1, 2003, a strategy, plan, and recommendations for addressing the resource needs of emergency response urban search and rescue units.

SEC. 817. Section 8670.24 of the Government Code is amended to read:

8670.24. (a) The administrator shall evaluate all pilotage areas in the state. This evaluation shall include all of the following:

(1) The effectiveness of the state licensing program.

(2) The policies and procedures for investigating pilot incidents by either the Coast Guard or the~~ State Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun~~ *Department of Consumer Affairs*.

(3) The feasibility and desirability of applying a surcharge in addition to other fees for pilotage for the purposes of providing expanded pilot training.

(b) The administrator will contact the various pilotage groups, the Coast Guard, and the maritime industry as part of his or her evaluation process.

SEC. 818. Section 8690.45 of the Government Code is amended to read:

8690.45. The Controller shall establish the following special account in the Disaster Assistance Fund.

The Earthquake Emergency Investigations Account, into which shall be paid all moneys appropriated by the Legislature to the ~~Seismic Safety Commission~~ *Department of General Services* for allocation for the purpose of enabling immediate investigation of damaging earthquakes. Allocations may be made by the ~~commission~~ *Department of General Services* to assist organizations that have incurred expenses in the course of conducting earthquake investigations. Allocations may be made to cover the following expenses:

(a) Travel, meals, and lodging.

(b) Publishing of findings.
(c) Contractor assistance in the investigation.
(d) Other expenses that the commission may allow as necessary to assist the investigation.

The unpredictable nature of earthquakes necessitates immediate access to funds for investigative purposes. For this reason, notwithstanding any other provision of law, funds in the Earthquake Emergency Investigations Account shall be available for expenditure without regard to fiscal years.

SEC. 819. The heading of Chapter 12 (commencing with Section 8870) of Division 1 of Title 2 of the Government Code is amended to read:

CHAPTER 12. ~~COMMISSION~~ *SEISMIC SAFETY ACT*

SEC. 820. Section 8870 of the Government Code is amended to read:

8870. The Legislature finds and declares as follows:

First, many different agencies at various levels of government have substantial responsibilities in the fields of earthquake preparedness and seismic safety.

Second, there is a pressing need to provide a consistent policy framework and a means for coordinating on a continuing basis the earthquake-related programs of agencies at all governmental levels and their relationships with elements of the private sector involved in practices important to seismic safety. This need is not being addressed by any continuing state government organization.

Third, through concerted efforts of broad scope, coordinated by ~~a seismic safety commission~~ *the Department of General Services*, long-term progress should be made toward higher levels of seismic safety.

Fourth, to provide and maintain effective policy guidance and leadership on seismic safety issues, and to fulfill its duties under this chapter, it is imperative that the ~~State Seismic Safety Commission~~ *Department of General Services* carry out its mission as an independent state agency, with direct access and accountability to the Governor and the Legislature.

Fifth, it is not the purpose of this chapter to transfer to the ~~commission~~ *Department of General Services* the authorities and responsibilities now vested by law in *other* state and local agencies.

SEC. 821. Section 8870.1 of the Government Code is amended to read:

~~8870.1. (a) (1) There is created in the state government the Alfred E. Alquist Seismic Safety Commission as an independent unit within the State and Consumer Services Agency.~~

~~(2)~~

8870.1. (a) Any reference in statute or regulation to the ~~Seismic~~ *"Seismic* Safety ~~Commission~~ *Commission" in any law or regulation and any reference to "commission" in the chapter* shall ~~be deemed to~~ refer to the ~~Alfred E. Alquist Seismic Safety Commission~~ *Department of General Services*.

(b) The ~~commission~~ *Department of General Services* shall report annually to the Governor and to the Legislature on its findings, progress, and recommendations relating to earthquake hazard reduction, and any other seismic safety issues, as requested by the Governor or the Legislature.

SEC. 822. Section 8870.2 of the Government Code is repealed.

~~8870.2. (a) The Alfred E. Alquist Seismic Safety Commission shall consist of 15 members appointed by the Governor and confirmed by the Senate, one member representing the Governor's Office of Emergency Services, one member representing the Division of the State Architect in the Department of General Services, one member representing the California State Building Standards Commission, one member appointed by the Senate Rules Committee, and one member appointed by the Speaker of the Assembly. The commission shall elect annually from its membership its own chairperson and vice chairperson and may replace them with other commissioners by majority vote. Commission members shall be residents of California.~~

~~(b) A quorum shall consist of 11 members if there are no vacancies, or else a majority of the members of the commission at the time.~~

~~(c) The Legislature declares that the individuals appointed to the commission are intended to represent the professions of architecture, planning, fire protection, public utilities, structural engineering, geotechnical engineering, geology, seismology, local government, insurance, social services, emergency services, and the Legislature and that such representation serves the public interest. Accordingly, the Legislature finds that for purposes of persons who hold this office the specified professions are~~

~~tantamount to and constitute the public generally within the meaning of Section 87103.~~

~~(d) The commission exists as a separate unit within the State and Consumer Services Agency, and has the functions of prescribing policy, holding meetings and setting dates of the meetings, conducting investigations, and holding hearings insofar as those powers are given by statute to the commission.~~

~~(e) The decisions and actions of the commission, with respect to exercising its authority and carrying out its duties under this chapter, or any other applicable law, are not subject to review by the Secretary of the State and Consumer Services Agency, but are final within the limits provided by this chapter.~~

~~(f) The Legislature further declares that the highest level of service that the individuals appointed to the commission can provide to the residents of California is to offer professional, unbiased, scientifically based advice to the Governor and the Legislature. To maintain this quality of service, it is imperative that the commission retain its functional autonomy and access to the Governor and the Legislature. As such, the commission shall retain its existing authority to issue reports, publications, and literature, as well as to sponsor legislation, and to take official positions on proposed state and federal legislation.~~

SEC. 823. Section 8870.3 of the Government Code is repealed.

~~8870.3. (a) The membership of the Alfred E. Alquist Seismic Safety Commission shall be appointed by the Governor and confirmed by the Senate from lists of nominees submitted by organizations as listed below:~~

~~(1) Four members appointed from established organizations in the fields of architecture and planning, fire protection, public utilities, electrical engineering, and mechanical engineering.~~

~~(2) Four members appointed from established organizations in the fields of structural engineering, geotechnical engineering, geology, and seismology.~~

~~(3) Four members submitted by the League of California Cities and the California State Association of Counties.~~

~~(4) Three members appointed from established organizations in the fields of insurance, social services, and emergency services. One of these members shall be a building official.~~

~~(b) One member shall be appointed from the Senate by the Senate Rules Committee, and one member shall be appointed from~~

~~the Assembly by the Speaker of the Assembly. Each of the members appointed pursuant to this subdivision may designate an alternate who shall be counted toward a quorum, who may vote, and who may receive the expenses specified in Section 8870.4.~~

SEC. 824. Section 8870.35 of the Government Code is repealed.

~~8870.35. The term of office for each member of the Seismic Safety Commission shall be four years and each shall hold office until the appointment and qualification of his or her successor. However, of the initial commissioners, the Governor shall appoint seven members whose terms will expire two years after appointment and seven members plus the chairperson whose terms shall expire four years after appointment. All initial appointments shall be made by July 1, 1975. Any vacancies shall be immediately filled by the appointing power for the unexpired portion of the term in which they occur.~~

SEC. 825. Section 8870.4 of the Government Code is repealed.

~~8870.4. (a) Except as provided in subdivision (d), the members of the Alfred E. Alquist Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of one hundred dollars ($100) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by Department of Personnel Administration rules.~~

~~(b) The members of the commission who represent the Governor's Office of Emergency Services, the California Building Standards Commission, and the Division of the State Architect shall be employees in good standing of those respective entities. Any per diem and travel expense of those members of the commission shall be paid by the agencies that they represent on the commission, in compliance with applicable conditions or regulations set by the Department of Personnel Administration.~~

SEC. 826. Section 8870.5 of the Government Code is amended to read:

8870.5. The ~~commission~~ *Department of General Services, as the successor entity to the commission*, in the discharge of its responsibilities *under this chapter*, may do any of the following:

(a) Accept grants, contributions, and appropriations from public agencies, private foundations, or individuals.

(b) Appoint committees ~~from its membership,~~ *and* appoint advisory committees from interested public and private groups,

~~and appoint ex officio members who shall not be entitled to vote,~~ to advise the ~~commission~~ *department*.

(c) Contract for or employ, with the approval of the Director of Finance, any professional services and research required by the ~~commission~~ *department* or required for the performance of necessary work and services which, in the ~~commission's~~ *department's* opinion, cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(d) Enter into agreements to act cooperatively with private nonprofit scientific, educational, or professional associations or foundations engaged in promoting seismic safety in California. These associations or foundations may furnish materials for sale, and the ~~commission~~ *department* may provide personnel services and office space therefor. Subject to rules and regulations adopted by the ~~commission~~ *department*, all moneys received from the sale of publications or other materials provided by an association or foundation shall be returned to the association or foundation for use in furthering seismic safety programs.

(e) Do any and all other things necessary to carry out the purposes of this chapter.

SEC. 827. Section 8870.55 of the Government Code is amended to read:

8870.55. The ~~commission~~ *Department of General Services* shall initiate, with the assistance and participation of other state, federal, and local government agencies, a comprehensive program to prepare the state for responding to a major earthquake prediction. The program should be implemented in order to result in specific tools or products to be used by governments in responding to an earthquake prediction, such as educational materials for citizens. This program may be implemented on a prototypical basis in one area of the state affected by earthquake predictions, provided that it is useful for application in other areas of the state upon its completion.

SEC. 828. Section 8870.6 of the Government Code is amended to read:

8870.6. The ~~commission~~ *Director of General Services* shall appoint ~~an executive director~~ *a subordinate officer* who shall be responsible for managing the affairs of the ~~commission~~ *Department*

of General Services under this chapter, subject to the direction and policies of the ~~commission~~ *Director of General Services*.

The ~~executive director~~ *Director of General Services* shall appoint ~~such~~ employees ~~as~~ *that* may be necessary to carry out the functions of the ~~commission~~ *Department of General Services under this chapter*.

SEC. 829. Section 8870.7 of the Government Code is amended to read:

8870.7. The ~~commission~~ *Department of General Services* is responsible for all of the following in connection with earthquake hazard mitigation:

(a) Setting goals and priorities in the public and private sectors.

(b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.

~~(c) Scheduling a report on disaster mitigation issues from the Office of Emergency Services, on the commission agenda as required. For the purposes of this subdivision, the term disaster refers to all natural hazards which could have impact on public safety.~~

~~(d)~~

(c) Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

~~(e)~~

(d) Reviewing the recovery and reconstruction efforts after damaging earthquakes.

~~(f)~~

(e) Gathering, analyzing, and disseminating information.

~~(g)~~

(f) Encouraging research.

~~(h)~~

(g) Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

~~(i)~~

(h) Helping to coordinate the earthquake safety activities of government at all levels.

~~(j)~~

(i) Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

SEC. 830. Section 8870.71 of the Government Code is amended to read:

8870.71. To implement the foregoing responsibilities, the ~~commission~~ *Department of General Services* may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals related to earthquake safety to advise the Governor and Legislature concerning the proposals and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the ~~commission's~~ *department's* view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study that is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) In addition, the ~~commission~~ *department* may perform any of the functions contained in subdivisions (a) to (d), inclusive, in relation to disasters, as defined in subdivision (c) of Section 8870.7, in connection with issues or items reported or discussed with the Office of Emergency Services at any commission meeting.

SEC. 831. Section 8870.95 of the Government Code is amended to read:

8870.95. The Hospital Building Safety Board established in Section 129925 of the Health and Safety Code shall report annually to the ~~Alfred E. Alquist Seismic Safety Commission~~ *Department of General Services*.

SEC. 832. Section 8878.52 of the Government Code is amended to read:

8878.52. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the Earthquake Safety and Public Buildings Rehabilitation Finance Committee created pursuant to subdivision (a) of Section 8878.111.

(b) ~~"Commission" means the Seismic Safety Commission~~ *Any reference to the Seismic Safety Commission or "commission" shall refer to the Department of General Services*.

(c) "Fund" means the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 created pursuant to Section 8878.55.

(d) "Local government" means any city, county, city and county, or special district.

(e) "Office" means the Office of Emergency Services.

(f) "Project" means a program of work to retrofit, reconstruct, repair, replace, or relocate, for local government-owned facilities only, a building, facility, or both, which is owned by any city, county, city and county, or special district and which is included in an application for a grant of funds.

(g) "State Architect" means the Office of the State Architect.

(h) "State building or facility" means any building or structure owned by a state agency, which is identified pursuant to Section 8878.60, except for vehicular bridges, roadways, highways, or any facilities or buildings owned by the University of California or the California State University.

(i) "Local government building or facility" means an existing essential services building, as defined in Section 16007 of the Health and Safety Code, or an emergency or public safety local building as identified in Section 8878.99, which is owned by a city, county, city and county, or special district.

(j) State or local government buildings shall not include those owned by private for profit or private nonprofit corporations, or those owned by any combination, consortium, or joint powers agreement that includes a private nonprofit corporation.

(k) "Retrofit" means to either strengthen the structure of a building or facility, or to provide the means necessary to reduce the seismic force level experienced by a building or facility during an earthquake, so as to significantly reduce hazards to life safety while concomitantly providing for the substantially safe egress of occupants during and immediately after such an earthquake.

SEC. 833. Section 8894 of the Government Code is amended to read:

8894. (a) The State Architect, in consultation with ~~the State Building Standards Commission~~ *Department of General Services*, the California Council of the American Institute of Architects, the California Building Officials, the International Conference of

Building Officials, the Structural Engineers Association of California, ~~the Seismic Safety Commission,~~ the Department of Housing and Community Development, the Concrete ~~Masonary~~ *Masonry* Association of California and Nevada, the Community Associations Institute, the Consulting Engineers and Land Surveyors of California, the California Building Owners and Managers Association, the California Hotel and Motel Association, the California Housing Council, Inc., the California Apartment Association, the California Chamber of Commerce, the Business Properties Association, the California Association of Realtors, the California Supervisors Association, the Executive Council of Homeowners, and the League of California Cities shall develop seismic retrofit guidelines and standards for buildings enclosing more than 20,000 square feet of floor area with concrete or reinforced masonry column or wall construction by January 1, 1996.

(b) The State Architect shall publish a commentary explaining the seismic retrofit guidelines and standards and their use by January 1, 1996. The seismic retrofit standards shall be submitted to the ~~State Building Standards Commission~~ *Department of General Services*, and shall be made available to other interested parties.

(c) On or before July 1, 1997, the ~~State Building Standards Commission~~ *Department of General Services* shall adopt, approve, codify, and publish by reference in the California Building Standards Code, the seismic retrofit standards developed pursuant to this chapter.

(d) On or before August 1, 1997, the ~~State Building Standards Commission~~ *Department of General Services* shall submit the seismic retrofit standards to the International Conference of Building Officials for consideration and adoption into model codes, as defined in Section 18916 of the Health and Safety Code.

SEC. 834. Section 8920 of the Government Code is amended to read:

8920. (a) No Member of the Legislature, state elective or appointive officer, or judge or justice shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict

with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state.

(b) No Member of the Legislature shall do any of the following:

(1) Accept other employment which he *or she* has reason to believe will either impair his *or her* independence of judgment as to his *or her* official duties or require him *or her*, or induce him *or her*, to disclose confidential information acquired by him *or her* in the course of and by reason of his *or her* official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him *or her* in the course of and by reason of his *or her* official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value, or portion thereof, in consideration of his *or her* appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.

This subdivision shall not be construed to prohibit a member who is an attorney at law from practicing in that capacity before any court or before the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board and receiving compensation therefor. This subdivision shall not act to prohibit a member from acting as an advocate without compensation or making inquiry for information on behalf of a constituent before a state board or agency, or from engaging in activities on behalf of another which require purely ministerial acts by the board or agency and which in no way require the board or agency to exercise any discretion, or from engaging in activities involving a board or agency which are strictly on his or her own behalf. The prohibition contained in this subdivision shall not apply to a partnership or firm of which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from the transaction. The prohibition contained in this subdivision as it read immediately prior to January 1, 1983, shall not apply in connection with any matter pending before any state board or agency on or before January 2, 1967, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 2, 1967. The prohibition contained in this subdivision, as amended and operative on January 1, 1983, shall not apply to any activity

of any ~~Member~~ *member* in connection with a matter pending before any state board or agency on January 1, 1983, which was not prohibited by this section prior to that date, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 1, 1983.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, in committee, or elsewhere, in the passage or defeat of legislation in which he has a personal interest, except as follows:

~~(i)~~

(A) If, on the vote for final passage by the house of which he *or she* is a member, of the legislation in which he *or she* has a personal interest, he *or she* first files a statement (which shall be entered verbatim on the journal) stating in substance that he *or she* has a personal interest in the legislation to be voted on and, notwithstanding that interest, he *or she* is able to cast a fair and objective vote on that legislation, he *or she* may cast his *or her* vote without violating any provision of this article.

~~(ii)~~

(B) If the member believes that, because of his *or her* personal interest, he *or she* should abstain from participating in the vote on the legislation, he *or she* shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his *or her* personal interest. In the event a rule of the house requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

The provisions of this section do not apply to persons who are members of the state civil service as defined in Article VII of the California Constitution.

SEC. 835. Section 11012 of the Government Code is amended to read:

11012. Whenever any state agency, including, but not limited to, state agencies acting in a fiduciary capacity, is authorized to invest funds, or to sell or exchange securities, prior approval of the Department of Finance to the investment, sale, or exchange shall be secured.

Every state agency shall furnish the Department of Finance with the reports and in the form, relating to the funds or securities, their acquisition, sale, or exchange, as may be requested by the Department of Finance from time to time.

This section does not apply to the following state agencies:

(a) Any state agency if issuing or dealing in securities authorized to be issued by it.

(b) The ~~State~~ Treasurer.

(c) The Regents of the University of California.

(d) Employment Development Department.

(e) Department of Veterans Affairs.

(f) Hastings College of Law.

(g) Board of Administration of the Public Employees' Retirement System.

(h) State Compensation Insurance Fund.

(i) California Transportation Commission and Department of Transportation if acting in accordance with bond resolutions adopted under the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17 of the Streets and Highways Code) prior to September 15, 1945.

(j) Teachers' Retirement Board of the State Teachers' Retirement System.

(k) State ~~Athletic Commission~~ *and Consumer Services Agency* if acting pursuant to Section 18882 of the Business and Professions Code with respect to the Boxers' Pension Fund.

SEC. 836. Section 11033.5 of the Government Code is repealed.

~~11033.5. Sections 11032 and 11033 shall not apply to any member of the Commission on Uniform State Laws.~~

SEC. 837. Section 11041 of the Government Code is amended to read:

11041. (a) Sections 11042 and 11043 do not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of

Transportation, Division of Labor Standards Enforcement of the Department of Industrial Relations, ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor to any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

(b) The Trustees of the California State University shall pay the cost of employing legal counsel from their existing resources.

SEC. 838. Section 11121.1 of the Government Code is amended to read:

11121.1. As used in this article, "state body" does not include any of the following:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

~~(g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.~~

SEC. 839. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a

quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

~~(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.~~

~~(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.~~

~~(10)~~

(8) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

~~(11)~~

(9) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

~~(12)~~

(10) Prevent the Board of Corrections *and Rehabilitation* from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

~~(13)~~

(11) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

~~(14)~~

(12) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of

Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

~~(15)~~

(13) Prevent the *California Environmental Protection Agency, as successor to the* California Integrated Waste Management Board or its auxiliary committees, from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

~~(16)~~

(14) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

~~(17)~~

(15) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing of Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

~~(18)~~

(16) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or

terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the ~~State Board~~ *Department* of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board pursuant to Part 6.2 (commencing with Section 12693), Part 6.3

(commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code.

SEC. 840. Section 11343 of the Government Code is amended to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted or amended by it except one that is a building standard.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal, six duplicate copies of the regulation or order of repeal, together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(e) Transmit to the ~~California Building Standards Commission~~ *Department of General Services* for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard, together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

(f) Whenever a certification is required by this section, it shall be made by the head of the state agency that is adopting, amending, or repealing the regulation, or by a designee of the agency head, and the certification and delegation shall be in writing.

SEC. 841. Section 11346.1 of the Government Code is amended to read:

11346.1. (a) (1) The adoption, amendment, or repeal of an emergency regulation is not subject to any provision of this article or Article 6 (commencing with Section 11349), except this section and Sections 11349.5 and 11349.6.

(2) At least five working days before submitting an emergency regulation to the office, the adopting agency shall, except as provided in paragraph (3), send a notice of the proposed emergency

action to every person who has filed a request for notice of regulatory action with the agency. The notice shall include both of the following:

(A) The specific language proposed to be adopted.

(B) The finding of emergency required by subdivision (b).

(3) An agency is not required to provide notice pursuant to paragraph (2) if the emergency situation clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest.

(b) (1) Except as provided in subdivision (c), if a state agency makes a finding that the adoption of a regulation or order of repeal is necessary to address an emergency, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal.

(2) Any finding of an emergency shall include a written statement that contains the information required by paragraphs (2) to (6), inclusive, of subdivision (a) of Section 11346.5 and a description of the specific facts demonstrating the existence of an emergency and the need for immediate action, and demonstrating, by substantial evidence, the need for the proposed regulation to effectuate the statute being implemented, interpreted, or made specific and to address only the demonstrated emergency. The finding of emergency shall also identify each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies. The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

A finding of emergency based only upon expediency, convenience, best interest, general public need, or speculation, shall not be adequate to demonstrate the existence of an emergency. If the situation identified in the finding of emergency existed and was known by the agency adopting the emergency regulation in sufficient time to have been addressed through nonemergency regulations adopted in accordance with the provisions of Article 5 (commencing with Section 11346), the finding of emergency shall include facts explaining the failure to address the situation through nonemergency regulations.

(3) The statement and the regulation or order of repeal shall be filed immediately with the office.

(c) Notwithstanding any other provision of law, no emergency regulation that is a building standard shall be filed, nor shall the

building standard be effective, unless the building standard is submitted to the ~~California Building Standards Commission,~~ *Department of General Services* and is approved and filed pursuant to Sections 18937 and 18938 of the Health and Safety Code.

(d) The emergency regulation or order of repeal shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as a part of, the regulation or order of repeal.

(e) No regulation, amendment, or order of repeal initially adopted as an emergency regulatory action shall remain in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, either before adopting an emergency regulation or within the 180-day period. The adopting agency, prior to the expiration of the 180-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, amendment, or order of repeal, the rulemaking file, and a certification that Sections 11346.2 to 11347.3, inclusive, were complied with either before the emergency regulation was adopted or within the 180-day period.

(f) If an emergency amendment or order of repeal is filed and the adopting agency fails to comply with subdivision (e), the regulation as it existed prior to the emergency amendment or order of repeal shall thereupon become effective and after notice to the adopting agency by the office shall be reprinted in the California Code of Regulations.

(g) If a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e), this failure shall constitute a repeal of the regulation and after notice to the adopting agency by the office, shall be deleted.

(h) The office may approve not more than two readoptions, each for a period not to exceed 90 days, of an emergency regulation that is the same as or substantially equivalent to an emergency regulation previously adopted by that agency. Readoption shall be permitted only if the agency has made substantial progress and proceeded with diligence to comply with subdivision (e).

SEC. 842. Section 11351 of the Government Code is amended to read:

11351. (a) Except as provided in subdivision (b), Article 5 (commencing with Section 11346), Article 6 (commencing with

Section 11349), Article 7 (commencing with Section 11349.7), and Article 8 (commencing with Section 11350) shall not apply to the Public Utilities Commission or the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, and Article 3 (commencing with Section 11343) and Article 4 (commencing with Section 11344) shall apply only to the rules of procedure of these state agencies.

(b) The Public Utilities Commission and the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall comply with paragraph (5) of subdivision (a) of Section 11346.4 with respect to regulations that are required to be filed with the Secretary of State pursuant to Section 11343.

(c) Article 8 (commencing with Section 11350) shall not apply to the Division of Workers' Compensation.

SEC. 843. Section 11356 of the Government Code is amended to read:

11356. (a) Article 6 (commencing with Section 11349) is not applicable to a building standard.

(b) Article 5 (commencing with Section 11346) is applicable to those building standards, except that the office shall not disapprove those building standards nor refuse to publish any notice of proposed building standards if either has been approved by, and submitted to, the office by the ~~California Building Standards Commission~~ *Department of General Services* pursuant to Section 18935 of the Health and Safety Code.

SEC. 844. Section 11435.15 of the Government Code is amended to read:

11435.15. (a) The following state agencies shall provide language assistance in adjudicative proceedings to the extent provided in this article:

Agricultural Labor Relations Board
Department of Alcohol and Drug Abuse
State Athletic Commission
~~California Unemployment Insurance~~
Employment and Benefits Appeals Board
Board of ~~Prison Terms~~ *Parole Hearings*
~~State Board of Barbering and Cosmetology~~
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board

State Department of ~~Health Services~~ *Public Health*
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development
State Department of Social Services
~~Workers' Compensation Appeals Board~~
~~Department of the Youth Authority~~
Juvenile Justice Division of the Department of Corrections and Rehabilitation
Youthful Offender Parole Board
Department of Insurance
State Personnel Board
~~California Board of Podiatric Medicine~~
~~Board of Psychology~~

(b) Nothing in this section prevents an agency other than an agency listed in subdivision (a) from electing to adopt any of the procedures in this article, provided that any selection of an interpreter is subject to Section 11435.30.

(c) Nothing in this section prohibits an agency from providing an interpreter during a proceeding to which this chapter does not apply, including an informal factfinding or informal investigatory hearing.

(d) This article applies to an agency listed in subdivision (a) notwithstanding a general provision that this chapter does not apply to some or all of an agency's adjudicative proceedings.

SEC. 845. Section 11435.25 of the Government Code is amended to read:

11435.25. (a) The cost of providing an interpreter under this article shall be paid by the agency having jurisdiction over the matter if the presiding officer so directs, otherwise by the party at whose request the interpreter is provided.

(b) The presiding officer's decision to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the party in need of the interpreter to pay.

(c) Notwithstanding any other provision of this section, in a hearing before the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board or the Division of Workers' Compensation relating to workers' compensation claims, the payment of the costs of providing an interpreter shall be governed by the rules and regulations promulgated by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board or the Administrative Director of the Division of Workers' Compensation, as appropriate.

SEC. 846. Section 11553 of the Government Code is amended to read:

11553. (a) Effective January 1, 1988, an annual salary of eighty-one thousand six hundred thirty-five dollars ($81,635) shall be paid to each of the following:

(1) Chairperson of the ~~Unemployment Insurance~~ *Employment and Benefits* Appeals Board.

(2) Chairperson of the Agricultural Labor Relations Board.

(3) President of the Public Utilities Commission.

(4) Chairperson of the Fair Political Practices Commission.

(5) Chairperson of the Energy Resources Conservation and Development Commission.

(6) Chairperson of the Public Employment Relations Board.

~~(7) Chairperson of the Workers' Compensation Appeals Board.~~

~~(8)~~

(7) Administrative Director of the Division of Industrial Accidents.

~~(9)~~

(8) Chairperson of the State Water Resources Control Board.

~~(10) Chairperson and each member of the California Integrated Waste Management Board.~~

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 847. Section 11553.5 of the Government Code is amended to read:

11553.5. (a) Effective January 1, 1988, an annual salary of seventy-nine thousand one hundred twenty-two dollars ($79,122) shall be paid to the following:

(1) Member of the Agricultural Labor Relations Board.

(2) Member of the State Energy Resources Conservation and Development Commission.

(3) Member of the Public Utilities Commission.

(4) Member of the Public Employment Relations Board.

(5) Member of the ~~Unemployment Insurance~~ *Employment and Benefits* Appeals Board.

~~(6) Member of the Workers' Compensation Appeals Board.~~

~~(7)~~

(6) Member of the State Water Resources Control Board.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 848. Section 11555 of the Government Code is amended to read:

11555. (a) Effective January 1, 1988, an annual salary of seventy-one thousand five hundred eighty-seven dollars ($71,587) shall be paid to the ~~following:~~

~~(1) Chairperson~~ *chairperson* of the Board of Parole Hearings.

~~(2) Chairperson of the Occupational Safety and Health Appeals Board.~~

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 849. Section 11556 of the Government Code is amended to read:

11556. (a) Effective January 1, 1988, an annual salary of sixty-nine thousand seventy-six dollars ($69,076) shall be paid to ~~each of the following:~~

~~(1) Commissioner~~ *a member* of the Board of Parole Hearings.

~~(2) Member of the Occupational Safety and Health Appeals Board.~~

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 850. Section 11564 of the Government Code is amended to read:

11564. (a) Effective January 1, 1988, an annual salary of twenty-five thousand one hundred eighteen dollars ($25,118) shall be paid to each member of the State Air Resources Board ~~and the Central Valley Flood Protection Board~~, if each member devotes a minimum of 60 hours per month to state board work. The salary shall be reduced proportionately if less than 60 hours per month is devoted to state board work.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 851. Section 12231 of the Government Code is repealed.

~~12231. In carrying out the provisions of this article, the Secretary of State shall consult with and give consideration to the recommendations of the California Heritage Preservation Commission, which for that purpose shall serve in an advisory capacity to the Secretary of State.~~

SEC. 852. Section 12420.2 of the Government Code is amended to read:

12420.2. The Controller may purchase annuity contracts for permanent employees of the State Department of Education, ~~Department of the Youth Authority~~ *Juvenile Justice Division of the Department of Corrections and Rehabilitation*, Board of Governors of the California Community Colleges, Department of Corrections *and Rehabilitation*, State Department of Mental Health, California Maritime Academy, Commission for Teacher Credentialing, State Department of Developmental Services, California State Library, ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*, Private Postsecondary Vocational Education Council, *and* Department of Consumer Affairs, ~~Board of Vocational Nurse and Psychiatric Technician Examiners, and the Board of Registered Nursing,~~ and shall reduce the salary of each employee for whom an annuity contract is purchased by the amount of the cost thereof provided that all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code and Section 17512 of the Revenue and Taxation Code.

(b) The employee makes application to the Controller for the purchase and reduction of salary.

(c) All provisions of the Insurance Code applicable to the purchase of those annuities are satisfied.

SEC. 853. Section 12805.10 is added to the Government Code, to read:

12805.10. The Governor shall appoint, upon the nomination of the Secretary of the Resources Agency, officers that are deemed necessary to manage and direct the functions of the Resources Agency.

SEC. 854. Section 12813 of the Government Code is amended to read:

12813. The Labor and Workforce Development Agency consists of the following:

(a) Office of the Secretary of Labor and Workforce Development.

(b) Agricultural Labor Relations Board.

(c) California Workforce Investment Board.

(d) Department of Industrial Relations, including the California Apprenticeship Council, ~~California Occupational Safety and Health~~

~~Appeals Board,~~ California Occupational Safety and Health Standards Board, ~~Commission on Health and Safety and Workers' Compensation, Industrial Welfare Commission,~~ *and* State Compensation Insurance Fund~~, and Workers' Compensation Appeals Board~~.

(e) Employment Development Department, including ~~the California Unemployment Insurance Appeals Board, and~~ the Employment Training Panel.

(f) Employment and Benefits Appeals Board.

SEC. 855. Section 13332.16 of the Government Code is amended to read:

13332.16. This article shall not apply to appropriations to the Legislature, the Legislative Counsel Bureau, the Bureau of State Audits, ~~the California Commission on Uniform State Laws,~~ or the California Law Revision Commission.

SEC. 856. Section 14502 of the Government Code is amended to read:

14502. The commission consists of 13 members appointed as follows:

(a) Nine members shall be appointed by the Governor with the advice and consent of the Senate. One member shall be appointed by the Speaker of the Assembly and one member shall be appointed by the Senate Committee on Rules, with neither of these members subject to confirmation by the Senate. A member appointed pursuant to this subdivision shall not simultaneously hold an elected public office, or serve on any local or regional public board or commission with business before the commission.

(b) One Member of the Senate appointed by the Senate Committee on Rules and one Member of the Assembly appointed by the Speaker of the Assembly shall be ex officio members without vote and shall participate in the activities of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

~~(c) Notwithstanding any other provision of law, a voting member of the commission may serve on the High-Speed Rail Authority as established in Division 19.5 (commencing with Section 165000) of the Public Utilities Code.~~

SEC. 857. Section 14617 of the Government Code is amended to read:

14617. The Office of the State Architect and the ~~California Building Standards Commission~~ *Department of General Services*, in consultation with ~~offices and divisions within the Department of General Services, and with~~ the Department of the California Highway Patrol, shall jointly adopt regulations in Title 24 of the California Code of Regulations to establish a standard of lighting for parking lots at the University of California, California State University, and California Community Colleges. This standard shall be adopted and submitted to the ~~California Building Standards Commission~~ *Department of General Services* for approval on or before June 30, 1991, and published by the commission in the 1992 triennial publication of the California Building Code.

The Office of the State Architect shall also adopt regulations in Title 24 of the California Code of Regulations to establish the Illumination Engineering Society Handbook recommendations as the standard lighting level for primary campus walkways used at night at the University of California, California State University, and California Community Colleges. These regulations shall be adopted and submitted to the ~~California Building Standards Commission~~ *Department of General Services* for approval on or before June 30, 1991, and published by the commission in the 1992 triennial publication of the California Building Code.

This section shall not apply to the University of California unless the Regents of the University of California, by resolution, makes it applicable.

SEC. 858. Section 14652 is added to the Government Code, to read:

14652. (a) The Department of General Services succeeds to, and is vested with, all the duties, powers, purposes, obligations, liabilities, responsibilities, and jurisdiction of the following entities that no longer exist:

(1) 911 Advisory Board.

(2) Building Standards Commission.

(3) Seismic Safety Commission.

(4) Vietnam Veterans Memorial Commission.

(5) Mexican American Veterans' Memorial Beautification and Enhancement Commission.

(b) Wherever any reference is made to the entities listed in paragraphs (1) to (5), inclusive, of subdivision (a) to the chairperson or executive director pertaining to a duty, power,

purpose, responsibility, or jurisdiction transferred to the Department of General Services by this section, it shall be deemed to be a reference to, and to mean, the Department of General Services or to the Director of General Services, as the case may be. For the purposes of this section, "predecessor entities" means the entities listed in paragraphs (1) to (5), inclusive, of subdivision (a).

(c) The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the predecessor entities.

(d) Any regulation or other action, adopted, prescribed, taken, or performed by a predecessor entity in the administration of a program or the performance of a duty, responsibility, or authorization transferred by this section to the department shall remain in effect and shall be deemed to be a regulation or action of the department. The regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of General Services.

(e) No suit, action, or other proceeding lawfully commenced by or against a predecessor entity, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of General Services, and the department shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(f) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of the transfer pursuant to this section, but shall continue in full force and effect, with the department assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the department shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors shall become the indebtedness of the department. Any ongoing obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the department without impairment to any security contained in the bond instrument.

(g) The department may expend the money in any appropriation or in any special fund in the State Treasury made available by law for the administration of the statutes the administration of which is committed to the department, or for the use, support, or maintenance of any of the predecessor entities whose duties, powers, and functions have been transferred to and conferred upon the department. These expenditures by the department shall be made in accordance with applicable law in carrying out the purposes for which the appropriations were made or the special funds created.

(h) Any officer or employee of the predecessor entities who is performing a function transferred to the department and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions exempt from the civil service.

SEC. 859. Chapter 2 (commencing with Section 14999) of Part 5.7 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 860. Section 15563 is added to the Government Code, to read:

15563. (a) The Labor and Workforce Development Agency succeeds to, and is vested with, all the duties, powers, purposes,

obligations, liabilities, responsibilities, and jurisdiction of the following entities that no longer exist:

(1) Commission on Health and Safety and Workers' Compensation.

(2) Industrial Welfare Commission.

(b) Wherever any reference is made to the entities listed in paragraphs (1) and (2) of subdivision (a) to the chairperson pertaining to a duty, power, purpose, responsibility, or jurisdiction transferred to the Labor and Workforce Development Agency by this section, it shall be deemed to be a reference to, and to mean, the Labor and Workforce Development Agency or to the Secretary of Labor and Workforce Development, as the case may be. In exercising the authority transferred to the Secretary of Labor and Workforce Development pursuant to this section, the secretary shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 1150) of Part 1 of Division 3. For the purposes of this section, "predecessor entities" means the entities listed in paragraphs (1) and (2) of subdivision (a).

(c) The agency shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the predecessor entities.

(d) Any regulation or other action, adopted, prescribed, taken, or performed by a predecessor entity in the administration of a program or the performance of a duty, responsibility, or authorization transferred by this section to the agency shall remain in effect and shall be deemed to be a regulation or action of the agency. The regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Labor and Workforce Development Agency.

(e) No suit, action, or other proceeding lawfully commenced by or against a predecessor entity, in relation to the administration

of any program or the discharge of any duty, responsibility, or authorization transferred by this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Labor and Workforce Development Agency, and the agency shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(f) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of the transfer pursuant to this section, but shall continue in full force and effect, with the agency assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the agency shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors shall become the indebtedness of the agency. Any ongoing obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the agency without impairment to any security contained in the bond instrument.

(g) The agency may expend the money in any appropriation or in any special fund in the State Treasury made available by law for the administration of the statutes the administration of which is committed to the agency, or for the use, support, or maintenance of any of the predecessor entities whose duties, powers, and functions have been transferred to and conferred upon the agency. These expenditures by the agency shall be made in accordance with applicable law in carrying out the purposes for which the appropriations were made or the special funds created.

(h) Any officer or employee of the predecessor entities who is performing a function transferred to the agency and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the agency. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the agency, pursuant to the State Civil Service Act (Part 2 (commencing with

Section 18500) of Division 5), except as to positions exempt from the civil service.

SEC. 861. Section 15853 of the Government Code is amended to read:

15853. (a) The board may select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

(b) If moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to this part or (2) for any state agency for whom property is acquired by the board, the moneys and acquisitions are subject to this part and the moneys shall be expended in accordance with this part, notwithstanding any other provisions of law.

(c) Notwithstanding any other provisions of law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the Department of Water Resources, ~~the State Reclamation Board,~~ the Department of Fish and Game, the Wildlife Conservation Board, the Public Employees' Retirement System, the State Teachers' Retirement System, the Department of Housing and Community Development, the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, and the State Coastal Conservancy with respect to acceptance of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, shall be acquired by the State Public Works Board in accordance with this part.

(d) (1) Notwithstanding subdivision (a), the board shall acquire, on behalf of and for the Department of Parks and Recreation, in accordance with this part, any interests in real property, including options to purchase, which have been appraised, selected, and settled through purchase negotiations by the Department of Parks and Recreation pursuant to subdivision (b) of Section 5006 of the Public Resources Code. Out of moneys appropriated for the acquisition of options to purchase, no more than ten thousand dollars ($10,000) may be expended for the acquisition of any single option unless otherwise provided by the Legislature.

(2) Notwithstanding Section 15854, purchase negotiations for interests in real property for the state park system pursuant to subdivision (d) of Section 5006 of the Public Resources Code shall be initiated within six months of the effective date of the act that appropriates funds for the acquisition. Purchase negotiations on all projects not proposed pursuant to subdivision (d) of Section 5006 of the Public Resources Code shall be initiated within 12 months of the effective date of the act appropriating funds for the acquisition. Either title shall be conveyed or a written agreement to transfer title shall be executed within the appropriate authorization period unless the Department of Parks and Recreation formally abandons the acquisition prior to the conclusion of the appropriate authorization period. For the purposes of this section, in order for the Department of Parks and Recreation to "formally abandon" an acquisition, it shall transmit written notification to the board of its intent not to proceed with the acquisition.

(3) The board, at any time during the periods specified in paragraph (2), may commence condemnation proceedings if it finds it to be appropriate. However, if, during the appropriate authorization period, title is not conveyed or a written agreement to transfer title is not signed, the acquisition has not been formally abandoned, or condemnation proceedings have not been commenced, the Department of Parks and Recreation shall notify, by letter, the chair of the committee in each house of the Legislature that considers appropriations, the Chair of the Joint Legislative Budget Committee, and the Members of the Legislature within whose district any part of the land or other real property is located of the status of the acquisition. For the purpose of this paragraph, condemnation proceedings shall be deemed to be commenced as of the date the board authorizes acquisition by condemnation.

(4) The board may schedule special meetings as are necessary to expedite the acquisition of options to purchase real property for the state park system.

(e) The board may acquire furnishings that the owner thereof agrees to sell and that are contained within improvements acquired by the board. Cost of acquisition of furnishings shall be charged to the appropriation available for acquisition of the real property.

SEC. 862. Section 15855 of the Government Code is amended to read:

15855. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), the State Public Works Board is the only state agency that may exercise the power of eminent domain to acquire property needed by any state agency for any state purpose or function.

(b) Subdivision (a) does not affect or limit the right of the Department of Transportation, Department of Water Resources, State Lands Commission, ~~State Reclamation Board,~~ Hastings College of the Law, or the Regents of the University of California to exercise the power of eminent domain. Subdivision (a) does not affect or limit the exercise of the power of eminent domain by the Department of Fish and Game pursuant to Section 1348 of the Fish and Game Code.

SEC. 863. Section 19878 of the Government Code is amended to read:

19878. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2) A permanent or probationary part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979, or a part-time or intermittent employee of the Legislature, whether or not a member of the Public Employees' Retirement System, in compensated employment on or after January 1, 1984.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury

resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit ~~period",~~ *period,*" with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California ~~Unemployment Insurance~~ *Employment and Benefits* Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such 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. 864. Section 20130 of the Government Code is amended to read:

20130. The board may enter into an agreement with the State Compensation Insurance Fund under which the latter shall represent this system, as its agent, or the Attorney General under which the latter shall represent this system, in proceedings instituted or to be instituted before the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board as may be referred to it by the board to determine whether the death or disability of a member is industrial. The agreed cost of this service and the expenses incidental thereto shall be paid from the retirement fund, except that there shall be no charge to this system by the Attorney General in cases involving members of this system who are employees of the General Fund state agencies.

SEC. 865. Section 21164 of the Government Code is amended to read:

21164. Notwithstanding any other provision of this article, the retirement for disability of a local safety member, other than a school safety member, shall not be effective without the member's consent earlier than the date upon which leave of absence without

loss of salary under Section 4850 of the Labor Code because of the disability terminates, or the earlier date during the leave as of which the disability is permanent and stationary as found by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

SEC. 866. Section 21166 of the Government Code is amended to read:

21166. If a member is entitled to a different disability retirement allowance according to whether the disability is industrial or nonindustrial and the member claims that the disability as found by the board, or in the case of a local safety member by the governing body of his or her employer, is industrial and the claim is disputed by the board, or in case of a local safety member by the governing body, the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedure as in workers' compensation hearings, shall determine whether the disability is industrial.

The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

SEC. 867. Section 21167 of the Government Code is amended to read:

21167. At any time within 20 days after the service of any findings of fact by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board under this part, any party aggrieved thereby, or the board, may petition for a rehearing upon one or more of the following grounds, and no other:

(a) That the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board acted without or in excess of its powers.

(b) That the findings of fact were procured by fraud.

(c) That the evidence does not justify the findings of fact.

(d) That the petitioner has discovered new evidence material to him or her, that he or she could not, with reasonable diligence, have discovered and produced at the hearing.

SEC. 868. Section 21168 of the Government Code is amended to read:

21168. Within 30 days after the petition for rehearing is denied, or, if the petition is granted, within 30 days after the rendition of

amended findings of fact on rehearing, any person affected thereby, including this system, may apply to the Supreme Court or to the court of appeal of the appellate district in which he or she resides, for a writ of review, for the purpose of inquiring into and determining the lawfulness of the findings of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

SEC. 869. Section 21169 of the Government Code is amended to read:

21169. The writ of review shall be made returnable not later than 30 days after the date of issuance thereof, and shall direct the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to certify its record in the case to the court. On the return day the cause shall be heard in the court unless continued for good cause. No new or additional evidence shall be introduced in the court, but the cause shall be heard on the record of the appeals board, as certified to by it.

SEC. 870. Section 21170 of the Government Code is amended to read:

21170. The review by the court shall not be extended further than to determine whether the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board acted without or in excess of its powers, or unreasonably, or whether its act was procured by fraud.

SEC. 871. Section 21171 of the Government Code is amended to read:

21171. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall have continuing jurisdiction over its determinations made under Section 21166 and may at any time within five years of the date of injury, upon notice and after an opportunity to be heard is given to the parties in interest, rescind, alter, or amend the determination, good cause appearing therefor.

SEC. 872. Section 21174 of the Government Code is amended to read:

21174. If it is not claimed that the disability is industrial or if the claim is made and the member so requests, the board shall proceed with retirement and with the payment of the benefits as are payable when disability is not industrial. If the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board subsequently determines that disability is industrial, an amount equal to the benefits paid shall be deducted from the benefits payable under this system because of the determination. No

additional benefits shall be payable, however, because disability is determined to be industrial unless the application for that determination is filed with the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board or in the office of this system in Sacramento, for transmission to the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board within two years after the effective date of the member's retirement.

SEC. 873. Section 21430 of the Government Code is amended to read:

21430. Upon retirement of a local safety member for industrial disability, the member shall receive in lieu of the allowance otherwise provided by this article a disability retirement allowance in the amount of the percentage of final compensation equal to the percentage of permanent disability determined by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board for the purposes of permanent disability payments pursuant to Article 3 (commencing with Section 4650) of Chapter 2 of Part 2 of the Labor Code with respect solely to the injury resulting in the disability retirement and giving effect to Section 4750 of the Labor Code, but not less than 50 percent nor in excess of 90 percent of the member's final compensation.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of contracts made after June 14, 1975, by express provision in such contract making the contracting agency subject to the provisions of this section.

This section shall only apply to members who retire for disability on and after the date the agency elects to be subject to this section.

SEC. 874. Section 21537 of the Government Code is amended to read:

21537. (a) The special death benefit is payable if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial, or local safety member, if his or her death was industrial and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of a member was industrial.

(b) The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section does not apply to state safety members described in Section 20401.5 or local safety members described in Section 20423.6.

SEC. 875. Section 21537.5 of the Government Code is amended to read:

21537.5. (a) The special death benefit is payable if the deceased was a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation, if his or her death occurred as a direct result of injury arising out of and in the course of his or her official duties with the department working on the California highway system performing highway maintenance, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of that injury.

(b) The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the ~~Workers' Compensation~~ *Employment Benefits* Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section shall not become operative unless and until a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this section applicable to those members described in subdivision (a).

SEC. 876. Section 21538 of the Government Code is amended to read:

21538. The special death benefit is also payable if the deceased was a state member appointed by the Governor, the Director of Corrections *and Rehabilitation*, or the Board of Prison Terms, if his or her death occurred as a result of injury or disease arising out of and in the course of his or her official duties within a state prison

or facility of the Department of Corrections *and Rehabilitation*, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of the injury or disease.

The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

SEC. 877. Section 21540 of the Government Code is amended to read:

21540. The special death benefit is also payable if the deceased was the Secretary of the Youth and Adult Corrections Agency, or was a state member appointed by the Secretary of the Youth and Adult Corrections Agency, the Department of the Youth Authority, the Superintendent of the California Institution for Women, or the Women's Board of Terms and Paroles, the Board of Corrections, or was a member of the Board of Corrections or the Department of the Youth Authority not already classified as a prison member, provided that his or her death occurred as a result of misconduct of an inmate of a state prison, correctional school, or facility of the Department of Corrections or the Department of the Youth Authority, *or any successor agency,* or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his or her official duties and unless there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases, determine whether the member's death arose out of and in the course of his or her official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

SEC. 878. Section 21540.5 of the Government Code is amended to read:

21540.5. (a) The special death benefit is also payable if the deceased was a state, school, or local miscellaneous member, a local safety member described in Section 20423.6, or a state safety member described in Section 20401.5, if the death of the member was a direct consequence of a violent act perpetrated on his or her person that arose out of and was in the course of his or her official duties and there is a survivor who qualifies under paragraph (2) of subdivision (a) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases determine whether the member's death was a direct consequence of a violent act perpetrated on his or her person that arose out of and in the course of his or her official duties.

(b) A natural parent of surviving children eligible to receive an allowance payable under this section is not required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

(c) The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(d) This section does not apply to a contracting agency nor its employees unless and until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract.

SEC. 879. Section 21544 of the Government Code is amended to read:

21544. Upon notice of a death as a result of which the special death benefit may be payable, and when there is a survivor who

would qualify under subdivision (b) of Section 21541, the board, or in disputed cases, the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, shall determine whether the death was industrial, and pending final determination of the issue, the board shall temporarily pay special death benefits. The temporary payments shall be deducted from any other death benefits otherwise payable if the death is determined not to be industrial.

SEC. 880. Section 22820 of the Government Code is amended to read:

22820. (a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, a firefighter employed by the federal government who was a resident of this state and whose regular duty assignment was to perform firefighting services within this state, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 days of the death of the employee if a spouse or family member may be eligible for enrollment in a health benefit plan under this section.

(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death occurred as a result of injury or disease arising out of and in the course of his or her official duties as required under subdivision

(a), that dispute shall be determined by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, subject to the same procedures and standards applicable to hearings relating to claims for workers' compensation benefits. The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board under this section is limited to the sole issue of industrial causation and this section does not authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against the system.

(c) (1) Notwithstanding any other provision of law, and except as otherwise provided in subdivision (d), the state shall pay the employer contribution required for enrollment under this part for the uninsured surviving spouse of a deceased firefighter or peace officer for life, and the other uninsured eligible family members of a deceased firefighter or peace officer, provided the family member meets the eligibility requirements of Section 22775 and regulations pertinent thereto.

(2) The contribution payable by the state for each uninsured surviving spouse and other uninsured eligible family members shall be adjusted annually and be equal to the amount specified in Section 22871.

(3) The state's contribution under this section shall commence on the effective date of enrollment of the uninsured surviving spouse or other uninsured eligible family members. The contribution of each surviving spouse and eligible family member shall be the total cost per month of the benefit coverage afforded him or her under the plan less the portion contributed by the state pursuant to this section.

(d) The cancellation of coverage by an annuitant, as defined in this section, shall be final without option to reenroll, unless coverage is canceled because of enrollment in an insurance plan from another source.

(e) For purposes of this section, "surviving spouse" means a husband or wife who was married to the deceased firefighter or peace officer on the deceased's date of death and either for a continuous period of at least one year prior to the date of death or prior to the date the deceased firefighter or peace officer sustained the injury or disease resulting in death.

(f) For purposes of this section, "uninsured" means that the surviving spouse is not enrolled in an employer-sponsored health

plan under which the employer contribution covers 100 percent of the cost of health care premiums.

(g) The board has no duty to identify, locate, or notify any surviving spouse or eligible family member who may be or may become eligible for benefits under this section.

SEC. 881. Section 53115.1 of the Government Code is repealed.

~~53115.1. (a) There is in state government the State 911 Advisory Board.~~

~~(b) The advisory board shall be comprised of the following members appointed by the Governor who shall serve at the pleasure of the Governor.~~

~~(1) The Chief of the California 911 Emergency Communications Office shall serve as the nonvoting chair of the board.~~

~~(2) One representative from the Department of the California Highway Patrol.~~

~~(3) Two representatives on the recommendation of the California Police Chiefs Association.~~

~~(4) Two representatives on the recommendation of the California State Sheriffs' Association.~~

~~(5) Two representatives on the recommendation of the California Fire Chiefs Association.~~

~~(6) Two representatives on the recommendation of the CalNENA Executive Board.~~

~~(7) One representative on the joint recommendation of the executive boards of the state chapters of the Association of Public-Safety Communications Officials-International, Inc.~~

~~(c) Recommending authorities shall give great weight and consideration to the knowledge, training, and expertise of the appointee with respect to their experience within the California 911 system. Board members should have at least two years of experience as a Public Safety Answering Point (PSAP) manager or county coordinator, except where a specific person is designated as a member.~~

~~(d) Members of the advisory board shall serve at the pleasure of the Governor, but may not serve more than two consecutive two-year terms, except as follows:~~

~~(1) The presiding Chief of the California 911 Emergency Communications Office shall serve for the duration of his or her tenure.~~

~~(2) Four of the members shall serve an initial term of three years.~~

~~(e) Advisory board members shall not receive compensation for their service on the board, but may be reimbursed for travel and per diem for time spent in attending meetings of the board.~~

~~(f) The advisory board shall meet quarterly in public sessions in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 2 of Part 1 of Division 3 of Title 2). The Telecommunications Division shall provide administrative support to the State 911 Advisory Board. The State 911 Advisory Board, at its first meeting, shall adopt bylaws and operating procedures consistent with this article and establish committees as necessary.~~

~~(g) Notwithstanding any other provision of law, any member of the advisory board may designate a person to act as that member in his or her place and stead for all purposes, as though the member were personally present.~~

SEC. 882. Section 53115.1 is added to the Government Code, to read:

53115.1. Any reference to the State 911 Advisory Board shall refer to the Department of General Services.

SEC. 883. Section 53115.2 of the Government Code is amended to read:

53115.2. ~~(a)~~ The ~~State 911 Advisory Board shall advise the Telecommunications Division of the Department of~~ *Director of* General Services *may consult with any or all former members of the board that was known as the State 911 Advisory Board prior to its abolishment* on all of the following subjects:

~~(1)~~

(a) Policies, practices, and procedures for the California 911 Emergency Communications Office.

~~(2)~~

(b) Technical and operational standards for the California 911 system consistent with the National Emergency Number Association (NENA) standards.

~~(3)~~

(c) Training standards for county coordinators and Public Safety Answering Point (PSAP) managers.

~~(4)~~

(d) Budget, funding, and reimbursement decisions related to the State Emergency Number Account.

~~(5)~~

(e) Proposed projects and studies conducted or funded by the State Emergency Number Account.

~~(6)~~

(f) Expediting the rollout of Enhanced 911 Phase II technology.

~~(b)~~

(g) Upon request of a local public agency, the ~~board~~ *Director of General Services* shall conduct a hearing on any conflict between a local public agency and the Telecommunications Division regarding a final plan that has not been approved by the Telecommunications Division pursuant to Section 53114. The ~~board~~ *director* shall ~~meet~~ *conduct the hearing* within 30 days following the request, and shall make a recommendation to resolve the conflict to the Telecommunications Division within 90 days following the initial hearing by the ~~board~~ *director* pursuant to the request.

SEC. 884. Section 63029 is added to the Government Code, to read:

63029. (a) The board of directors of the California Infrastructure and Economic Development Bank succeeds to, and is vested with, all the duties, powers, purposes, obligations, liabilities, responsibilities, and jurisdiction of the California Public Library Construction and Renovation Board which no longer exists.

(b) Wherever any reference is made to the California Public Library Construction and Renovation Board or the Chairperson of the California Public Library Construction and Renovation Board pertaining to a duty, power, purpose, responsibility, or jurisdiction transferred to the board of directors of the California Infrastructure and Economic Development Bank by this section, it shall be deemed to be a reference to, and to mean, the California Infrastructure and Economic Development Bank or to the board of directors of the California Infrastructure and Economic Development Bank, as the case may be.

(c) The bank board shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the California Public Library Construction and Renovation Board.

(d) Any regulation or other action, adopted, prescribed, taken, or performed by the California Public Library Construction and Renovation Board in the administration of a program or the performance of a duty, responsibility, or authorization transferred by this section to the bank board shall remain in effect and shall be deemed to be a regulation or action of the bank board. The regulations and orders adopted by the California Public Library Construction and Renovation Board and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the California Public Library Construction and Renovation Board or any of its predecessors shall mean the bank board.

(e) No suit, action, or other proceeding lawfully commenced by or against the California Public Library Construction and Renovation Board, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization. Any action by or against the California Public Library Construction and Renovation Board or any of its predecessors shall not abate but shall continue in the name of the board of directors of the California Infrastructure and Economic Development Bank, and the bank board shall be substituted for the California Public Library Construction and Renovation Board and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(f) No contract, lease, license, bond, or any other agreement to which the California Public Library Construction and Renovation Board or any of its predecessors are a party shall be void or voidable by reason of the transfer pursuant to this section, but shall continue in full force and effect, with the bank board assuming all of the rights, obligations, liabilities, and duties of the California Public Library Construction and Renovation Board and any of its predecessors. That assumption by the bank board shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the California Public Library

Construction and Renovation Board or any of its predecessors shall become the indebtedness of the bank board. Any ongoing obligations or responsibilities of the California Public Library Construction and Renovation Board for managing and maintaining bond issuances shall be transferred to the bank board without impairment to any security contained in the bond instrument.

(g) The bank board may expend the money in any appropriation or in any special fund in the State Treasury made available by law for the administration of the statutes the administration of which is committed to the bank board, or for the use, support, or maintenance of any of the California Public Library Construction and Renovation Board whose duties, powers, and functions have been transferred to and conferred upon the bank board. These expenditures by the bank board shall be made in accordance with applicable law in carrying out the purposes for which the appropriations were made or the special funds created.

(h) Any officer or employee of the California Public Library Construction and Renovation Board who is performing a function transferred to the California Infrastructure and Development Bank and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the bank. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the bank, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions exempt from the civil service.

SEC. 885. Section 65054.5 of the Government Code is repealed.

~~65054.5. In addition to its other responsibilities under this article, the advocate shall do the following:~~

~~(a) Develop on its Internet Web site, and update as necessary, a handbook about emergency preparedness, responses to emergencies, and recovery strategies for small businesses.~~

~~(b) Conduct, no later than July 1, 2008, at least three public meetings, and one public meeting every other year thereafter, to share best practices for small business disaster preparedness. The meetings shall be held in consultation with regional and statewide small business organizations and shall take place in different locations throughout the state.~~

SEC. 886. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (g), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all ~~low-and~~ *low- and* very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance

program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity-sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity-sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city,

county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of either of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to

grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section. The city, county, or city and county shall also establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

(e) In no case may a city, county, or city and county apply any development standard that will have the effect of precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(f) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(g) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. As used in subdivision (b), "total units" or "total dwelling units" does not include units permitted by a density bonus awarded pursuant to this section or any local law granting a greater density bonus. The density bonus provided by this section shall apply to housing developments consisting of five or more dwelling units.

(h) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county as provided for in this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required pursuant to this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(D) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of dedication.

(E) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may

require the applicant to identify and transfer the land to the developer.

(F) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(i) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or a city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(j) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(k) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(*l*) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the ~~California Building Standards Commission~~ *Department of General Services* as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) Nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedrooms: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subdivision (d).

SEC. 887. Section 87406 of the Government Code is amended to read:

87406. (a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b) No Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) No elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

(d) (1) No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or

attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board. The prohibition of this paragraph shall only apply to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to any individual subject to this section who is or becomes any of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

(f) This section shall become operative on January 1, 1991, but only if Senate Constitutional Amendment No. 32 of the 1989–90 Regular Session is approved by the voters. With respect to Members of the Legislature whose current term of office on January 1, 1991, began in December 1988, this section shall not apply until January 1, 1993.

SEC. 888. The heading of Division 1 (commencing with Section 30) of the Harbors and Navigation Code is amended to read:

DIVISION 1. DEPARTMENT OF BOATING AND WATERWAYS ~~AND THE BOATING AND WATERWAYS COMMISSION~~

SEC. 889. Section 31 of the Harbors and Navigation Code is repealed.

~~31. "Commission" means the Boating and Waterways Commission.~~

SEC. 890. Section 62.9 of the Harbors and Navigation Code is amended to read:

62.9. Upon request, the department shall make available to persons owning or operating small craft harbors~~, such~~ information ~~as is~~ available to the ~~commission~~ *department* concerning the following:

(a) The maintenance and improvement of existing small craft harbor facilities.

(b) The application of new technical materials and concepts.

(c) The preparation of feasibility reports, environmental impact reports, permits, and other steps required to develop new small craft harbor facilities.

SEC. 891. Section 63 is added to the Harbors and Navigation Code, to read:

63. (a) The Boating and Waterways Commission is hereby abolished.

(b) The department or the director, as appropriate, succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Boating and Waterways Commission.

(c) Hereafter, any reference in law to the Boating and Waterways Commission, the Harbors and Watercraft Commission, or the Navigation and Ocean Development Commission shall be construed as a reference to the department or the director, as applicable.

(d) All officers and employees of the Boating and Waterways Commission who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of

Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(e) The department or director, as appropriate, shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the Boating and Waterways Commission.

(f) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred pursuant to this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(g) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this section.

(h) The unexpended balance of funds that were available for use by the Boating and Waterways Commission in carrying out functions transferred to the department under this section shall be made available for the use of the department.

SEC. 892. Section 63.3 is added to the Harbors and Navigation Code, to read:

63.3. The department shall cause studies and surveys to be made of the need for small craft harbors and connecting waterways throughout the state and the most suitable sites therefor.

SEC. 893. Section 63.6 of the Harbors and Navigation Code is amended to read:

63.6. (a) (1) On or before January 15 of each odd-numbered year, the director shall make a report to the ~~commission, the~~ Legislature~~,~~ and the Governor covering the operations of the department for the preceding biennium.

(2) With respect to Article 5 (commencing with Section 76), the report shall include all of the following:

(A) The total amount of loans made in each of the two fiscal years immediately preceding the preparation and submission of the report.

(B) For each recipient of a loan during each of the two fiscal years immediately preceding the preparation and submission of the report, the recipient's name, the location of the marina for which the loan was made, and the amount of the loan.

(C) The financial status of each loan.

(D) Any legislative recommendations.

(3) The report shall also include the status of the department's activities related to the monitoring of rates pursuant to Section 71.4 and subdivision (d) of Section 76.7.

(4) The report shall also include an evaluation of the public participation in the personal watercraft education course developed by the department pursuant to subdivision (b) of Section 668.3 and a determination of the effect of the course on personal watercraft safety in California.

(b) The department shall also make any special reports that are requested by the Secretary of Resources or the Governor.

SEC. 894. Section 71.7 of the Harbors and Navigation Code is amended to read:

71.7. Notwithstanding any other provision of this chapter, Section 82, or any contract or agreement to the contrary, loan payments on the loan on behalf of Spud Point Marina in the County of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516 of Section 2.00 of the Budget Act of 1982, and administered by the department, may be renegotiated by the department and the County of Sonoma~~, with the advice and consent of the commission,~~ to solve the fiscal problems involving the marina existing on the effective date of this section as enacted during the 1994 portion of the 1993–94 Regular Session.

SEC. 895. Section 72.6 of the Harbors and Navigation Code is amended to read:

72.6. Transfers pursuant to Section 70, loans pursuant to Section 71.4, and grants pursuant to Section 72.5 shall be made by the department ~~with the advice and consent of the commission~~.

SEC. 896. Section 76.5 of the Harbors and Navigation Code is amended to read:

76.5. In processing applications under this article, the department shall give priority to applications from private marina

owners who have not received previous loans from the department. ~~If the department finds a proposed loan project is feasible, the loan request shall be submitted to the commission for its advice and consent.~~

SEC. 897. Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code is repealed.

SEC. 898. Section 704 of the Harbors and Navigation Code is repealed.

~~704. In accordance with the provisions of Section 82 of this code, the commission shall advise the department with respect to all matters relating to the administration of this act. The department shall submit any proposed regulations or changes in regulations pertaining to this act for review and comment by the commission prior to enactment.~~

SEC. 899. Section 1106 of the Harbors and Navigation Code is amended to read:

1106. No fine or other penalty authorized by ~~the provisions of~~ this division, nor any revocation or suspension of a pilot license or commission except as provided in Section 1180, may be imposed by the ~~board~~ *department* without a full and open prior public hearing on the matter.

SEC. 900. Section 1111 of the Harbors and Navigation Code is repealed.

~~1111. "Board" means the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.~~

SEC. 901. Section 1111 is added to the Harbors and Navigation Code, to read:

1111. (a) "Department" means the Department of Consumer Affairs.

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

SEC. 902. Section 1125 of the Harbors and Navigation Code is amended to read:

1125. (a) Pilots licensed by the ~~board~~ *department* have exclusive authority, to the extent not provided otherwise by federal law, to pilot vessels from the high seas to Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and the ports thereof, and from those bays and ports to the high seas. They shall also have exclusive authority to pilot vessels within and along the waters of those bays, except as otherwise set forth in this division.

(b) Nothing in this division shall interfere with pilotage regulations of Monterey Bay and of the Ports of Sacramento and Stockton, nor prevent the regulatory authority of those ports from utilizing the pilots licensed pursuant to this division.

SEC. 903. Section 1126 of the Harbors and Navigation Code is amended to read:

1126. (a) Every person who does not hold a license as a pilot or as an inland pilot issued pursuant to this division, and who pilots any vessel into or out of any harbor or port of Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays, is guilty of a misdemeanor. In addition to the fines or other penalties provided by law, the court may order that person to pay to the pilot who is entitled to pilot the vessel the amount of pilotage fees collected. No fees shall be paid for pilotage if a state-licensed pilot refuses to join the vessel under paragraph (5) of subdivision (c).

(b) Any person may also be enjoined from engaging in the pilotage prescribed by subdivision (a) by a court of competent jurisdiction.

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

(1) The master of a vessel who has relieved the pilot to ensure the safe operation of the vessel, but only from the point where the pilot is relieved to the closest safe berth or anchorage, or the high seas if closer than a safe berth or anchorage.

(2) Persons piloting vessels pursuant to the valid regulatory authority of the Port of Sacramento or the Port of Stockton.

(3) Persons piloting vessels sailing under an enrollment, as specified in Section 1127.

(4) Persons piloting vessels pursuant to Section 1179.

(5) Persons piloting vessels when a state-licensed pilot refuses to join the vessel. However, a vessel may not hire a pilot not licensed by the state until a representative of the vessel notifies the port agent or his or her designee that the vessel will hire a pilot not licensed by the state unless a state-licensed pilot offers to join the vessel immediately. The port agent or his or her designee shall notify the ~~executive~~ director ~~of the board~~ or his or her designee that this paragraph applies.

(d) The exemption set forth in paragraph (5) of subdivision (c) does not apply in instances where a state licensed pilot refuses to

join a vessel because of suspected safety violations concerning that vessel's pilot hoists or pilot ladders.

SEC. 904. Section 1127 of the Harbors and Navigation Code is amended to read:

1127. (a) The Legislature finds and declares that it is the policy of the state to ensure the safety of persons, property, and vessels using the waters of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and to avoid damage to those waters and surrounding ecosystems as a result of vessel collision or damage by providing competent, efficient, and regulated pilotage for vessels required by this division to secure pilotage services.

(b) Nothing in this section shall supersede, modify, or otherwise alter pilot practices that are not safety related, including, but not limited to, the determination of rates charged for pilot services or employer-employee relationships for individuals, agencies, or organizations involved in providing pilotage services between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States that is in existence on December 31, 1995, or otherwise abridge the authority of local port or harbor districts relating to pilotage in effect on December 31, 1995.

(c) The ~~board~~ *department* shall regulate pilotage on waters of the state as provided in this division.

(d) Every vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States is exempt from all pilotage charges unless a pilot or inland pilot is actually employed. Every foreign vessel and every vessel bound between a foreign port and any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and every vessel sailing under a register between any port of Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and any other port of the United States, shall use a pilot or inland pilot holding a license issued pursuant to this division, except as otherwise provided by law.

(e) Subdivision (d) does not apply to a vessel that is less than 300 gross tons and is manufactured and used for private recreation.

SEC. 905. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. A majority of all of the pilots licensed by the ~~board~~ *department* shall appoint one pilot to act as port agent to carry out the orders of the ~~board~~ *department*, other applicable laws, and otherwise administer the affairs of the pilots. The appointment is subject to the confirmation of the ~~board~~ *department*.

SEC. 906. Section 1131 of the Harbors and Navigation Code is amended to read:

1131. Pilots shall at all times keep, for their exclusive use, vessels of such description and condition as the ~~board~~ *department* may direct.

SEC. 907. Section 1136 of the Harbors and Navigation Code is amended to read:

1136. Every pilot and inland pilot licensed pursuant to this division shall do all of the following:

(a) Take an oath of office in the manner prescribed by law.

(b) Submit monthly to the ~~board~~ *department* a verified account of all moneys or other compensation received by the pilot or inland pilot as a result of pilotage services, or by any other person for the pilot or inland pilot, or on the pilot's or inland pilot's account, on the forms furnished by the ~~board~~ *department*.

SEC. 908. Section 1137 of the Harbors and Navigation Code is amended to read:

1137. (a) The account shall show all of the following:

(1) The name of each vessel piloted.

(2) The name of the vessel's master.

(3) The name of each vessel for which pilotage has been charged or collected.

(4) The amount charged to or collected from each.

(5) Any rebates made and allowed and for what amounts.

(6) Where the vessel is registered.

(7) The depth of each vessel's draft and its highest gross tonnage.

(8) Whether the vessel was inward or outward bound.

(b) The ~~administrative assistant/secretary of the board~~ *department* shall record the accounts in full detail in a book prepared for that purpose. The account book is a public record.

SEC. 909. Chapter 2 (commencing with Section 1150) of Division 5 of the Harbors and Navigation Code is repealed.

SEC. 910. Chapter 2 (commencing with Section 1150) is added to Division 5 of the Harbors and Navigation Code, to read:

CHAPTER 2. REGULATION OF PILOTS

1150. (a) The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun is hereby abolished.

(b) The department or the director, as appropriate, succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the board.

(c) Hereafter, any reference in law to the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun shall be construed as a reference to the department or the director, as applicable, unless the context otherwise requires.

(d) All officers and employees of the board who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(e) The department or director, as appropriate, shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the board.

(f) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred pursuant to this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(g) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this section.

(h) The unexpended balance of funds that were available for use by the board in carrying out functions transferred to the department under this section shall be made available for the use of the department.

1152. (a) Whenever suspected safety standard violations concerning pilot hoists, pilot ladders, or the proper rigging of pilot hoists or pilot ladders are reported to the department, the director shall assign an investigator to personally inspect the equipment for its compliance with the relevant safety standards promulgated by the United States Coast Guard and the International Maritime Organization. The investigator shall report preliminary conclusions, including an assessment of the equipment's compliance with the relevant safety standards, to the director as soon as possible. If the equipment is found to be in violation of the relevant safety standards, the director shall immediately alert the Coast Guard Marine Safety Office. The investigator shall submit a written report to the incident review committee as established by subdivision (a) of Section 1180.3. The incident review committee, in turn, shall report its findings to the department. The department shall receive the incident review committee's findings which may include other reports, information, or statements from interested parties. The department shall specify, by regulation, the information which shall be contained in the report.

(b) This section applies to the pilotage grounds, as defined in Section 1114.5. Whenever a vessel passes outside the pilotage grounds, the investigator's report shall include that fact along with a description of the incident.

(c) The record of the investigation and the department's findings and recommendations, if any, shall be a public record maintained by the board for 10 years.

1154. (a) The Board of Pilot Commissioner's Special Fund is hereby continued in the State Treasury as the Pilot Commissioner's Special Fund.

(b) All moneys received by the department pursuant to the provisions of any law shall be accounted for at the close of each month to the Controller in the form which the Controller may prescribe and, at the same time on the order of the Controller, all these moneys shall be paid into the State Treasury to the credit of the Pilot Commissioner's Special Fund.

(c) Notwithstanding Section 13340 of the Government Code, the moneys deposited in the State Treasury to the credit of the Pilot Commissioner's Special Fund are hereby appropriated without regard to fiscal years for the payment of the compensation and expenses incurred under this division by the department, and to fund the training programs established under this division.

1156. (a) The director shall impose, and each vessel shall pay, a board operations surcharge, the purpose of which is to fully compensate the department for its official services, for the services of its staff, and for all its incidental expenses.

(b) The amount of the surcharge shall be 7.5 percent of all pilotage fees charged by pilots and inland pilots pursuant to Sections 1190 and 1191, unless the department establishes, with the approval of the Department of Finance, a lesser percentage.

(c) The surcharge shall be billed and collected by the pilots and inland pilots. The pilots and inland pilots shall pay all surcharges collected by them to the department monthly or at such later time as the department may direct.

(d) The department shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes that have occurred since the last adjustment.

SEC. 911. Section 1162 of the Harbors and Navigation Code is amended to read:

1162. (a) The pension plan shall be administered and all benefit payments shall be made by one or more fiduciary agents selected by the ~~board~~ *department*. Except for the collection of revenues in accordance with Section 1165 ~~and the pilots serving as members of the board~~, and unless otherwise directed by the ~~board~~ *department*, the pilots shall have no control of any kind or manner over the operation, administration, or management of the plan.

(b) All revenues pursuant to the plan shall be collected by the pilots, at no cost to the state ~~or board~~, and transmitted monthly to the fiduciary agent or agents. The revenues shall not be included in the account required by Section 1136.

SEC. 912. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) (A) Each retired pilot and inland pilot, who has completed 25 full years of service as a pilot or inland pilot, or both, shall receive, as a target monthly pension, an amount that is initially equal to 46 percent of an amount that is an average of the highest

three of the last five years of audited annual average net income per pilot, prior to the pilot's or inland pilot's retirement, divided by 12, which initial target monthly pension amount shall be subject to periodic adjustment pursuant to Section 1167. Pilots or inland pilots with other than 25 full years of service as a pilot or inland pilot, or both, shall receive a monthly pension in an amount that is determined by multiplying the above calculated target monthly pension by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years, which initial monthly pension amount shall be subject to periodic adjustment pursuant to Section 1167.

(B) Each disabled pilot or inland pilot shall receive as an initial target monthly pension an amount that is based on 46 percent of the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 1167:

(i) An amount that is the average of the highest three of the last five years of audited annual average net income per pilot divided by 12 and multiplied by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years.

(ii) The audited annual average net income per pilot, for the last year prior to the pilot's or inland pilot's disability, divided by 12 and multiplied by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years.

(C) Each pilot who retired before January 1, 1985, shall receive as an initial target monthly pension an amount that is one hundred seventy-eight dollars ($178) multiplied by the number of full years of service he or she performed as a pilot licensed under this division, which amount shall be subject to periodic adjustment pursuant to Section 1167.

(D) Each pilot who retired on or after January 1, 1985, or each inland pilot who retired after January 1, 1993, shall receive as an initial target monthly pension an amount that is the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 1167:

(i) An amount that is calculated by multiplying one hundred seventy-eight dollars ($178) by the number of full years of service

the pilot or inland pilot performed as a pilot or inland pilot licensed under this division.

(ii) An amount that is 46 percent of the average of the highest three of the last five years of audited annual average net income per pilot, prior to the pilot's or inland pilot's retirement, divided by 12 and multiplied by a fraction, the numerator of which is the pilot's or inland pilot's actual number of full years of service and the denominator of which is 25 years.

(2) A pilot or inland pilot who retires or becomes disabled shall not begin to receive a pension until the beginning of the benefit payment period next following the date on which the pilot or inland pilot retires or becomes disabled.

(3) A pilot or inland pilot shall not receive any benefits pursuant to the pension plan in any benefit payment period unless the pilot's or inland pilot's resignation as an active pilot or inland pilot specifying a proposed date of retirement was submitted, in writing, to the ~~board~~ *department*, prior to November if the pilot's or inland pilot's retirement is to be effective the first day of the following January, prior to February if the pilot's or inland pilot's retirement is to be effective the first day of the following April, prior to May if the pilot's or inland pilot's retirement is to be effective the first day of the following July, or prior to August if the pilot's or inland pilot's retirement is to be effective the first day of the following October. The pilot's or inland pilot's resignation as an active pilot or inland pilot shall become effective on either January 1, April 1, July 1, or October 1, as specified in the written resignation.

(4) If a retired or disabled pilot or inland pilot who is receiving a pension dies without a surviving spouse, the pilot's or inland pilot's successor in interest shall receive the monthly pension for the remainder of the benefit payment period within which the death occurs, after which time the monthly pension shall cease.

(b) (1) The surviving spouse of a deceased pilot who is eligible for a pension pursuant to paragraph (1) of subdivision (e) of Section 1164 and the surviving spouse of a deceased inland pilot who is eligible for a pension pursuant to paragraph (2) of subdivision (e) of Section 1164 shall each receive, as a monthly pension, three-fourths of the amount that the deceased pilot or inland pilot would have received as a monthly pension pursuant to this section had the pilot or inland pilot lived, calculated as if the deceased

pilot or inland pilot had been disabled pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(2) If a retired or disabled pilot or inland pilot who was receiving a pension dies, the surviving spouse shall continue to receive the full amount of the monthly pension to which the deceased pilot or inland pilot was entitled for the balance of the benefit payment period within which the death occurs, after which the surviving spouse shall receive the amount specified in paragraph (1).

(3) If a surviving spouse receiving a pension dies, the surviving spouse's successor in interest shall receive the monthly pension for the remainder of the benefit payment period within which the death occurs, after which time the monthly pension shall cease.

(c) For the purpose of the computations described in paragraph (1) of subdivision (a), six months or more of service by a pilot or inland pilot shall be considered a full year.

(d) Except as provided otherwise in this section and paragraph (4) of subdivision (e) of Section 1164, monthly pension amounts payable pursuant to this section to retired pilots and inland pilots and to their surviving spouses are payable for the life of that retired pilot, inland pilot, or spouse.

(e) To determine an inland pilot's full years of service under this chapter, any periods of service that an inland pilot has performed as a pilot shall be added to any service time performed as an inland pilot after January 1, 1987.

(f) In calculating the benefits of a retired or disabled pilot who was issued an original pilot's license in 1985 and who was not thereafter issued an inland pilot's license, or in calculating the benefits of the widow of such a pilot who is deceased, the number of years of service used in the calculation shall be the greater of the following:

(1) The actual number of full years of service the pilot has rendered.

(2) Ten years.

SEC. 913. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) Except as provided in subdivision (b), a pilot shall be eligible for the pension provided in Section 1163 if the pilot meets all of the following requirements:

(1) Held a license as a pilot and served at least 10 years in that capacity or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the ~~board~~ *department*, based upon competent medical evidence, that the pilot is unable to perform the duties of a pilot. As used in this chapter, "disabled" means a disability of permanent or extended and uncertain duration, as determined by the ~~board~~ *department*, on the basis of competent medical opinion.

(c) Except as provided in subdivision (d), an inland pilot shall be eligible for the pension provided in Section 1163 if the inland pilot meets all of the following requirements:

(1) Held a license as an inland pilot and served at least 10 years in that capacity after January 1, 1987, or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1987.

(3) Is at least 60 years of age.

(4) Since January 1, 1987, has held himself or herself out as providing pilotage assistance to the entire shipping industry consistent with the inland pilot's license.

(5) For services provided after January 1, 1994, performs a minimum of 75 assignments per calendar year unless excused from performance of that requirement due to medical needs satisfactory to the ~~board~~ *department*.

(d) A disabled inland pilot who meets the requirements of paragraph (4) of subdivision (c) shall be eligible for the pension provided in Section 1163 if it has been determined by the ~~board~~ *department*, based upon competent medical evidence, that the inland pilot is unable to perform the duties of an inland pilot.

(e) (1) A surviving spouse of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if that deceased pilot died after January 1, 1972, and that deceased pilot had held a license as a pilot.

(2) A surviving spouse of a deceased inland pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if the deceased inland pilot died after January 1, 1987, had held a license as an inland pilot, and since January 1, 1987, had held himself or herself out as providing pilotage assistance to the entire shipping industry consistent with the inland pilot's license.

(3) In order for a surviving spouse to be eligible for any pension benefits pursuant to this chapter, the surviving spouse shall have been legally married to the deceased pilot or inland pilot for at least one year prior to the deceased pilot's or inland pilot's death.

(4) A surviving spouse of a deceased pilot or inland pilot shall neither be eligible for, nor receive, pension benefits pursuant to this chapter if the surviving spouse remarries. If a surviving spouse who is receiving a monthly pension under this chapter remarries, the surviving spouse's successor in interest shall receive the amount of the monthly pension for the remainder of the benefit payment period as if the surviving spouse had died, in accordance with paragraph (3) of subdivision (b) of Section 1163.

SEC. 914. Section 1166 of the Harbors and Navigation Code is amended to read:

1166. (a) The benefits actually paid out each month by the fiduciary agent or agents designated by the ~~board~~ *department* to all retired and disabled pilots and inland pilots, to surviving spouses of deceased pilots and inland pilots, and to successors in interest shall be equal to the revenue received pursuant to Section 1165 during the preceding month less the expenses of the fiduciary agent or agents incurred during that month. The revenue, whether greater or less than the amount used in determining the tonnage rates under this chapter to provide the aggregate target pensions to which those persons are entitled according to Section 1163, shall be paid to each of them in proportion to the relative target amounts to which they are entitled, after payment of the expenses of the fiduciary agent or agents.

(b) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotage during that month or year. The fiduciary agent or agents shall determine which accounting system shall be used to make the payment, provided that, if the accrual method is used, it shall be subject to later equitable adjustments for unpaid receivables.

(c) Benefits pursuant to the new rate calculations shall be paid commencing in February, May, August, and November of each year and shall continue through, and include, the next following April, July, October, and January, respectively, so that each benefit pension period equals three months of payments. The period during which benefits are paid is the benefit payment period.

SEC. 915. Section 1167 of the Harbors and Navigation Code is amended to read:

1167. (a) The ~~board~~ *department* shall review the benefits received by retired or disabled pilots and inland pilots and their surviving spouses every three years or when the cumulative percentage increase in the Consumer Price Index (San Francisco Bay ~~Area)~~ *area)* has exceeded 12 percent, whichever occurs first.

(b) The ~~board~~ *department* may increase the monthly pensions specified in Section 1163. Those increases shall take into consideration the maritime industry practice in the United States as brought to the attention of the ~~board~~ *department* by the pilots, inland pilots, or the industry. The increase shall not exceed 50 percent of the cumulative increase in the Consumer Price Index (San Francisco Bay ~~Area)~~ *area)*. Monthly pensions for retired pilots, inland pilots, or their surviving spouses who have been retired less than the full three-year interval between adjustments shall increase on a pro rata basis according to the number of months that those persons have been retired prior to that adjustment.

SEC. 916. Section 1168 of the Harbors and Navigation Code is amended to read:

1168. The ~~board~~ *department* may review the pension plan and make any recommendations it deems necessary for changes in the plan. Monthly pensions shall not be adjusted except as provided by Section 1167.

SEC. 917. Section 1170 of the Harbors and Navigation Code is amended to read:

1170. The ~~board~~ *department* shall appoint and license the number of pilots ~~which~~ *that* is sufficient to carry out the purposes of this division.

SEC. 918. Section 1170.1 of the Harbors and Navigation Code is amended to read:

1170.1. In determining the number of pilots needed, pursuant to Section 1170, the ~~board~~ *department* shall take into consideration the findings and declarations in Sections 1100 and 1101, the results of an audit made pursuant to, and the factors specified in, Section 1203, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, and whether the need for pilotage is increasing or decreasing.

SEC. 919. Section 1170.2 of the Harbors and Navigation Code is amended to read:

1170.2. Before changing the number of pilots ~~which~~ *that* may be licensed pursuant to this division, the ~~board~~ *department* shall conduct a hearing pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 920. Section 1170.3 of the Harbors and Navigation Code is amended to read:

1170.3. (a) The ~~board~~ *department* shall adopt, by regulation, a pilot's conflict-of-interest code, which shall include, but need not be limited to, a provision specifying that a pilot shall not have any interest in, or derive any income from, any tugboat in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. This requirement of divestiture does not apply to the ownership of barges and vessels similar to barges.

(b) The conflict-of-interest code shall not prohibit the ownership of stock in any corporation registered on a national securities exchange or on the National Market System of the NASDAQ Stock Market, pursuant to Section 78f of Title 15 of the United States Code, which may own tugboats in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

SEC. 921. Section 1171 of the Harbors and Navigation Code is amended to read:

1171. (a) The ~~board~~ *department* shall have the sole authority to determine the qualifications for obtaining a license as a pilot or inland pilot pursuant to this division, determine who shall have ~~such a~~ *the* license, and issue the license.

(b) All persons possessing a valid state pilot's license on January 1, 1985, are hereby licensed as if the license was granted by the ~~board~~ *department*.

SEC. 922. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The ~~board~~ *department* shall adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal endorsements and that conform with and support the state policy specified in Sections 1100 and 1101.

(b) The ~~board~~ *department* shall adopt reasonable rules and regulations that require pilots to be qualified to perform all pilot duties.

(c) The ~~board~~ *department* shall adopt, by regulation, training standards and a training program for pilots, inland pilots, and pilot

trainees. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots and inland pilots, the ~~board~~ *department* shall specify the type, nature, duration, and frequency of the training required and the identity of the pilots or inland pilots who are required to undergo training in the next 12-month period. Pursuant to Section 1182, the license of a pilot or inland pilot may be revoked or suspended if he or she fails to complete the training required by this subdivision during the period specified. The ~~board~~ *department* shall also require that an evaluation of the pilot's or inland pilot's performance be prepared by the institution selected by the ~~board~~ *department* to provide pilot training, and the institution shall provide copies of the evaluation to the pilot or inland pilot and to the pilot evaluation committee.

(d) The ~~board~~ *department* shall adopt, by regulation, the qualifications, standards, and rating criteria for admission of pilot trainees to the training program. Notwithstanding subdivision (f), the ~~board~~ *department* shall administer and conduct the pilot trainee admission selection in accordance with the regulations for admission.

(e) The ~~board~~ *department* shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years' experience as a pilot on the Bays of San Francisco, San Pablo, and Suisun. The ~~board~~ *department* shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot evaluation committee shall serve terms of two years.

(f) The pilot evaluation committee shall conduct and supervise the pilot training programs pursuant to the direction and regulation of the ~~board~~ *department* and consistent with the intent of this division.

(g) The ~~board~~ *department* shall issue a certificate of completion to each pilot trainee who satisfactorily completes the training program. The ~~board~~ *department* shall not issue a pilot's license to any person who does not receive a certificate of completion of the training program from the ~~board~~ *department*, although the ~~board~~ *department* may refuse to issue a pilot license to a pilot trainee who has received this certificate.

(h) The training program for pilots, inland pilots, and pilot trainees shall be funded from the ~~Board of~~ Pilot ~~Commissioners'~~ *Commissioner's* Special Fund pursuant to Section ~~1159~~ *1154*.

SEC. 923. Section 1172 of the Harbors and Navigation Code is amended to read:

1172. Pilots licensed by the ~~board~~ *department* shall be carefully examined as to their qualifications. A license as a pilot shall be granted for a term of 12 months. The license shall be renewed annually unless the ~~board~~ *department* has good cause to withhold renewal pursuant to Article 2 (commencing with Section 1180) ~~of this chapter~~.

SEC. 924. Section 1173 of the Harbors and Navigation Code is amended to read:

1173. An application for a pilot's license shall be made in writing to the ~~board~~ *department*, stating ~~such~~ *any* information ~~as~~ *that* the ~~board~~ *department* by rule and regulation may require.

SEC. 925. Section 1174 of the Harbors and Navigation Code is amended to read:

1174. A pilot's license shall be issued in the name of the State of California and contain a designation of the waters for which it is intended. The license shall be signed by the ~~president of the board~~ *director*.

SEC. 926. Section 1175 of the Harbors and Navigation Code is amended to read:

1175. No person shall be licensed as a pilot unless all of the following requirements are met:

(a) The person can meet the qualifications set by the ~~board~~ *department*, including age limitations, if any.

(b) The person is of good mental and physical health and good moral character.

(c) The person possesses the requisite skill and experience as a navigator and pilot, together with practical knowledge of the currents, tide, soundings, bearings, and distances of the several shoals, and the rocks, bars, points of landings, lights, and fog signals of, or pertaining to, the navigation of the pilot ground for which the person applies for a license to act as a pilot.

(d) The person can satisfy the ~~board~~ *department* that the person has means available for boarding and leaving vessels ~~which~~ *that* the person may be called upon to pilot.

SEC. 927. 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~~ *department* in conjunction with the renewal of their license. The examination shall designate that each pilot or inland pilot is fit to perform his or her duties as a pilot.

SEC. 928. Section 1179 of the Harbors and Navigation Code is amended to read:

1179. Notwithstanding any other provision of this division, any shipping company which regularly employed its employees, or expressed its intent to the ~~board~~ *former Board of Pilot Commissioners* to use its employees, for piloting vessels on the Bays of San Francisco, San Pablo, and Suisun on or before July 1, 1983, may employ and use its employees in that manner in lieu of pilots provided under this chapter. However, this use of employees as pilots on foreign flag vessels shall be limited to five vessel calls per year for those shipping companies that have only expressed their intent to use their employees in lieu of pilots. This limitation shall not apply to those shipping companies which regularly employed their employees for piloting vessels prior to July 1, 1983.

SEC. 929. Section 1180 of the Harbors and Navigation Code is amended to read:

1180. When, in the opinion of the ~~board~~ *department*, there is reasonable cause to believe that the public interest requires that a pilot or inland pilot be summarily suspended pending hearing on charges of misconduct which include any of the causes for suspension or revocation specified in Section 1181 or when the ~~board~~ *department* has information which leads it to believe that a pilot or inland pilot has become unable to comply with the standards of health or physical condition requisite to a pilot's or inland pilot's duties, the ~~board~~ *department* may, without hearing, temporarily suspend the license of the pilot or inland pilot for not exceeding 40 days pending hearing and decision on the charges. Unless an accusation on the charge is served on the pilot or inland pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, prior to the close of the sixth day after the suspension becomes effective, the temporary suspension terminates at the close of the sixth day.

SEC. 930. Section 1180.3 of the Harbors and Navigation Code is amended to read:

1180.3. (a) The ~~board~~ *department* shall establish an incident review committee~~, which shall be composed of one public member of the board and the executive director~~. The ~~board~~ *department* shall delegate to the incident review committee the responsibility to review all reports of misconduct or navigational incidents involving pilots or inland pilots or other matters for which a license issued by the ~~board~~ *department* may be revoked or suspended. This subdivision does not apply to an incident involving a pilot or inland pilot aboard a vessel of less than 300 gross tons unless a pilot or inland pilot is required by law.

(b) The incident review committee, with the assistance of one or more investigators, shall investigate the incident, misconduct, or other matter and prepare a written report. The incident review committee may call witnesses and request additional information if the incident review committee considers it necessary to conduct a complete investigation. In performing their duties, the members of the incident review committee and its investigators shall act fairly and impartially and shall treat all matters developed or maintained as required by law. The members of the incident review committee and the investigators shall not discuss any investigation with the ~~board or any member of the board~~ *department* until the matter has been finally disposed of by the incident review committee or final action has been taken by the ~~board~~ *department*, as appropriate. ~~The board~~

(c) The department shall specify, by regulation, the information to be contained in the report, which shall include, but need not be limited to, the following information relating to the incident, misconduct, or other matter:

(1) The name of the vessel, date, location, and identification of the pilot or inland pilot.

(2) A description of the weather and sea conditions.

(3) An illustration and description of the incident, misconduct, or other matter under investigation.

(4) An estimate of the damages, if any.

(5) The names of the witnesses providing information relating to the incident, misconduct, or other matter under investigation.

(6) The nature and extent of any injuries.

(7) A summary of any prior investigations of incidents, misconduct, or other matters involving the same pilot or inland pilot designated pursuant to paragraph (1).

(8) Any relevant correspondence or records from the United States Coast Guard relating to the incident, misconduct, or other matter under investigation.

(9) A historical record of the actions taken in the investigation and the action taken pursuant to Section 1180.6.

(10) A summary of the factual background of the incident, misconduct, or other matter investigated.

(11) The following information that is not a part of the public record:

(A) The report from the pilot or inland pilot.

(B) The confidential report of the investigator.

~~(c)~~

(d) Unless an accusation for suspension or revocation of the pilot's or inland pilot's license is served on the pilot or inland pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the incident review committee shall present the completed investigation report to the ~~board at the first monthly meeting of the board after the completion of the report~~ *department*. Unless an extension is granted by the ~~board~~ *department,* the report shall be presented within 90 days of the date of the incident, misconduct, or other matter investigated.

~~(d)~~

(e) The record of the investigation prepared pursuant to subdivision ~~(b)~~ *(c)* and the final disposition of the incident, misconduct, or other matter shall be retained in the records of the ~~board~~ *department* for 10 years after the completion of the investigation and, except for the items listed in paragraph (11) of subdivision ~~(b)~~ *(c)*, shall be a public record.

SEC. 931. Section 1180.6 of the Harbors and Navigation Code is amended to read:

1180.6. (a) The incident review committee, after full consideration of the evidence relating to the investigation of an incident, misconduct, or other matter pursuant to Section 1180.3, shall, at the conclusion of the investigation, take one of the following actions:

(1) Serve an accusation for suspension or revocation of the pilot's or inland pilot's license on the pilot or inland pilot, as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, pursuant to Sections 1181 and 1182.

(2) Enter into a written stipulation for corrective action to be performed by the pilot or inland pilot, which may include, but is not limited to, further training or supervised practice trips. A written stipulation may provide that it may be referred to and considered following a finding of fault in any subsequent accusation brought against the same pilot or inland pilot for the purpose of considering an appropriate sanction. A written stipulation shall not be used for any purpose more than five years after the date of its execution.

(3) Provide ~~counselling~~ *counseling* for the pilot or inland pilot relating to the duties and obligations of a pilot.

(4) Issue a warning letter of reprimand to the pilot or inland pilot.

(5) Take any other action, as provided in the guidelines adopted pursuant to subdivision (e).

(6) Close the investigation without further action.

(b) Action shall be taken by the incident review committee pursuant to subdivision (a) only if both members of the incident review committee agree on the course of action. If agreement cannot be reached between the ~~board member~~ *members* serving on the incident review committee ~~and the executive director~~ concerning appropriate action, the ~~president of the board~~ *director* shall appoint one additional public member ~~of the board~~ to serve on the incident review committee until there is final disposition of the case. Action required pursuant to subdivision (a) shall then be taken by a majority vote of the incident review committee.

~~(c) No member of the board shall sit on the board as a trier of fact for those cases where he or she has served on the incident review committee recommending action to the board.~~

~~(d)~~

(c) The ~~executive director~~ *department* shall establish a suspense file to ensure that all training, practice trips, or other corrective action required to be performed pursuant to subdivision (a) by the pilot or inland pilot are completed as required. The ~~executive director shall report to the board each month on~~ *department shall*

monitor, on a monthly basis, the progress of any training, supervised practice trips, or other corrective action or the completion of any other action required pursuant to subdivision (a).

~~(e)~~

(d) The ~~board~~ *department* shall adopt guidelines for the determination by the incident review committee of the action to be taken pursuant to subdivision (a) at the completion of any investigation conducted pursuant to Section 1180.3.

SEC. 932. Section 1181 of the Harbors and Navigation Code is amended to read:

1181. The license of a pilot or inland pilot may be revoked or suspended before its expiration only for reasons of misconduct, which shall include, but not be limited to, the following:

(a) ~~Neglect~~ *Neglecting*, for 30 days after it becomes due, to render an account to the ~~board~~ *department* of all money received for pilotage.

(b) ~~Neglect~~ *Neglecting*, for 30 days after it becomes due, to pay over to the ~~board~~ *department* the percentage of all pilotage money received, as set by the ~~board~~ *department*.

(c) Rendering to the ~~board~~ *department* a false account of pilotage received.

(d) Absence from duty for more than one month at any one time without leave granted by the ~~board~~ *department*, unless sickness or personal injury causes the absence. This subdivision does not apply to inland pilots.

(e) Refusing to exhibit the pilot or inland pilot license when requested to do so by the master of any vessel boarded.

(f) Intoxication or being under the influence of any substance or combination of substances which so affects the nervous system, brain, or muscles as to impair, to an appreciable degree, the ability to conduct the duties of a pilot or inland pilot while on duty.

(g) Negligently, ignorantly, or willfully running any vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property. However, this subdivision does not apply to a vessel of less than 300 gross tons unless a pilot or inland pilot is required by law.

(h) Willful violation of the rules and regulations adopted by the ~~board~~ *department* for the government of pilots or inland pilots.

(i) Inability to comply with the standards of health or physical condition requisite to the duties of a pilot or inland pilot, but in that case the burden of proving compliance with these standards is upon the licensee, unless prior to the hearing the licensee takes and passes those tests or examinations required by the ~~board~~ *department*.

SEC. 933. Section 1182 of the Harbors and Navigation Code is amended to read:

1182. If, after a hearing, the ~~board~~ *department* finds that the pilot or inland pilot is guilty of any misconduct sufficient for deprivation of the license, the ~~board~~ *department* shall revoke or suspend the license of the pilot or inland pilot. ~~The order shall be entered of record in the minutes by the administrative assistant/secretary.~~ The proceedings 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 ~~board~~ *department* shall have all the powers granted therein.

SEC. 934. Section 1183 of the Harbors and Navigation Code is amended to read:

1183. *(a)* Upon notification of nonrenewal of the license, a pilot or inland pilot is entitled to a trial and hearing in the same manner that other charges and accusations against pilots and inland pilots are tried.

~~In~~

(b) In every case of nonrenewal, suspension, or revocation of the license of a pilot or inland pilot for cause, the final decision of the ~~board~~ *department* is subject to judicial review in accordance with law, and the court shall exercise its independent judgment on the evidence.

SEC. 935. Section 1184 of the Harbors and Navigation Code is repealed.

~~1184. The board shall formally review the executive director with respect to the performance of his or her duties pursuant to this article at least once each year.~~

SEC. 936. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Eight dollars and eleven cents ($8.11) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:

(A) (i) On and after January 1, 2007, if the number of pilots licensed by the ~~board~~ *department* is reduced to 60 pilots, for any subsequent decrease in the number of pilots, the mill rate then in effect shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the ~~board~~ *department* below 60 pilots.

(ii) On and after January 1, 2007, if the number of pilots licensed by the ~~board~~ *department* falls below 60, for any subsequent increase in the number of pilots, the mill rate then in effect shall be increased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each new pilot that results in an increase in the number of pilots then licensed by the ~~board~~ *department*.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the ~~board~~ *department* for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the quarter (January 1, April 1, July 1, or October 1) as directed by the ~~board~~ *department*.

(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the ~~board~~ *department* to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The ~~board~~ *department* may adjust a pilot boat surcharge to reflect any

associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.

(C) In addition to the rate change specified in subparagraph (A) and the incremental rate specified in subparagraph (B), the mill rate established by this subdivision may be adjusted at the direction of the ~~board~~ *department* if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the ~~board~~ *department* determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services.

(2) A minimum charge for bar pilotage shall be six hundred sixty-two dollars ($662) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the ~~board~~ *department* pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The ~~board~~ *department* shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the ~~board~~ *department*.

(e) Consistent with the ~~board's~~ *Board of Pilot Commissioner's* May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those

in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.

SEC. 937. Section 1191 of the Harbors and Navigation Code is amended to read:

1191. (a) The ~~board~~ *department*, pursuant to Chapter 6 (commencing with Section 1200), shall recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots and inland pilots engaged in ship movements or special operations where rates for those movements or operations are not specified in Section 1190.

(b) Every vessel using pilots and inland pilots for ship movements or special operations that do not constitute bar pilotage shall pay the rate specified in the schedule of pilotage rates adopted by the Legislature.

(c) Consistent with the ~~board's~~ *Board of Pilot Commissioner's* adoption of rate recommendations in May 2002, the minimum rates imposed pursuant to this section that are in effect on December 31, 2002, shall be increased by 26 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 26 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 14 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 14 percent on January 1, 2006.

SEC. 938. Section 1195 of the Harbors and Navigation Code is amended to read:

1195. (a) In addition to other fees for pilotage, there shall be a surcharge in an amount established by the ~~board~~ *department* for each movement of a vessel using pilot services for each pilot trainee who is enrolled in the pilot trainee training program established by the ~~board~~ *department*.

(b) The moneys charged and collected each month from the pilot trainee surcharge shall be paid to the ~~board~~ *department*. The moneys shall be used only to fund the pilot trainee training program in the manner established by the ~~board~~ *department*.

(c) ~~By action of the board, the board~~ *The department* may adjust the amount established pursuant to subdivision (a) as necessary to efficiently administer the pilot trainee training program.

SEC. 939. Section 1196 of the Harbors and Navigation Code is amended to read:

1196. (a) In addition to other fees for pilotage, there shall be a surcharge in an amount established by the ~~board~~ *department* for each movement of a vessel using pilot services for the pilot and inland pilot training program established by the ~~board~~ *department*.

(b) The moneys charged and collected each month from the pilot and inland pilot training program surcharge shall be paid to the ~~board~~ *department*. The moneys shall be used only to fund the pilot and inland pilot training program in the manner established by the ~~board~~ *department*.

(c) ~~By action of the board, the board~~ *The department* may adjust the amount established pursuant to subdivision (a) as necessary to efficiently administer the pilot and inland pilot training program.

SEC. 940. Section 1200 of the Harbors and Navigation Code is amended to read:

1200. The ~~board~~ *department* shall, from time to time, review pilotage expenses and establish guidelines for the evaluation and application of these expenses regarding its recommendations for adjustments in rates.

SEC. 941. Section 1201 of the Harbors and Navigation Code is amended to read:

1201. Any party directly affected by pilotage rates established under this chapter may petition the ~~board~~ *department* for a public hearing on any of the matters set forth in Section 1200. Within 10 days from the filing of the petition the ~~board~~ *department* shall call public hearings to be held not less than 30 nor more than 60 days of the date of call for the purpose of obtaining information and data relating to the issues raised in the petition. The ~~board~~ *department* shall give notice of the hearings to all interested parties who have requested the notification. At the conclusion of the hearing or hearings, the ~~board~~ *department* shall review and evaluate all evidence obtained and, within 120 days from the filing of the petition, shall submit to the Secretary of the Senate and the Chief Clerk of the Assembly a copy of its findings and recommendations for final determination, supported by a transcript of these proceedings ~~of the board~~.

SEC. 942. Section 1201.5 of the Harbors and Navigation Code is amended to read:

1201.5. (a) The ~~board~~ *department* shall not receive written evidence at a public hearing held for the purpose of considering pilotage rates unless 10 or more copies of the evidence have been

deposited with the ~~board~~ *department* as public documents by the party proposing a rate adjustment 30 or more days prior to the date set for the commencement of the hearing.

(b) The ~~board~~ *department* shall not receive written evidence at the hearing from any party responding to the request unless the evidence is deposited with the ~~board~~ *department* 10 or more days prior to the date set for the commencement of the hearing.

SEC. 943. Section 1203 of the Harbors and Navigation Code is amended to read:

1203. In preparing recommendations to the Legislature with relationship to pilotage rates, the ~~board~~ *department* may require an independent audit or audits by a public accountant selected by the ~~board~~ *department*. The audits required by the ~~board~~ *department* shall cover pilotage operations for those years which the ~~board~~ *department* may specify. In preparing the recommendations, the ~~board~~ *department* shall also give consideration to other relevant factors, including, but not limited to, the following:

(a) The costs to the pilots, individually or jointly, of providing pilot service as required.

(b) A net return to the pilot sufficient to attract and hold persons capable of performing this service with safety to the public and protection to the property of persons using the service; and the relationship of that income to any changes in cost-of-living indices.

(c) Pilotage rates charged for comparable services rendered in other ports and harbors in the United States.

(d) The methods of determining pilotage rates in other ports and harbors in the United States.

(e) Economic factors affecting the local shipping industry, including prospective increases or decreases in income and labor costs.

(f) Additional factors affecting income to pilots such as the volume of shipping traffic using pilotage, numbers of pilots available to perform services, income paid for comparable services, and other factors of related nature.

(g) Changes in, or additions to, navigational and safety equipment necessary to ~~insure~~ *ensure* protection of persons, ships, and waterways.

SEC. 944. Section 6276 of the Harbors and Navigation Code is amended to read:

6276. (a) In lieu of the benefits afforded pursuant to Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code, the district may agree to provide workers' compensation benefits to its stevedore employees in amounts, and under ~~such~~ conditions, ~~as~~ *that* would be payable to stevedore employees of private employers pursuant to the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901~~,~~ et seq.).

(b) ~~Such an~~ *The* agreement shall be binding upon the parties only if it is in writing and signed by the employee and by a representative of the district. It shall acknowledge, in writing, that the benefits agreed upon are authorized by this section and are expressly in lieu of any benefits available under Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code.

(c) All claims for benefits against the district ~~which~~ *that* are authorized by this section shall be determined pursuant to law and the rules and regulations of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board. To the fullest extent possible, the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall attempt to apply the Longshoremen's and Harbor Workers' Compensation Act to employees covered by this section in the same manner as applicable to private employees.

(d) Notwithstanding the provisions of Sections 11779 and 11870 of the Insurance Code or any other provision of law, the State Compensation Insurance Fund or any private insurer may provide insurance coverage for the benefits authorized by this section.

SEC. 945. Section 6869 of the Harbors and Navigation Code is amended to read:

6869. (a) In lieu of the benefits afforded pursuant to Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code, the district may agree to provide workers' compensation benefits to its stevedore employees in amounts, and under ~~such~~ conditions, ~~as~~ *that* would be payable to stevedore employees of private employers pursuant to the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901~~,~~ et seq.).

(b) ~~Such an~~ *The* agreement shall be binding upon the parties only if it is in writing and signed by the employee and by a representative of the district. It shall acknowledge, in writing, that

the benefits agreed upon are authorized by this section and are expressly in lieu of any benefits available under Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code.

(c) All claims for benefits against the district ~~which~~ *that* are authorized by this section shall be determined pursuant to law and the rules and regulations of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board. To the fullest extent possible, the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall attempt to apply the Longshoremen's and Harbor Workers' Compensation Act to employees covered by this section in the same manner as applicable to private employees.

(d) Notwithstanding the provisions of Section 11779 of the Insurance Code or any other provision of law, the State Compensation Insurance Fund may provide insurance coverage for the benefits authorized by this section.

SEC. 946. Section 6901.1 of the Harbors and Navigation Code is amended to read:

6901.1. ~~It~~ *The district* may by resolution hold and save harmless the State of California, the ~~Reclamation Board of the State of California~~ *Department of Water Resources*, and the Sacramento and San Joaquin Drainage District, their officers, agents or employees, from all claims, damages or liability due or incident to the design, construction, operation, repair and maintenance of any waterway project of the United States entering the district or other improvement constructed by or for the district for which the approval of the ~~State Reclamation Board~~ *Department of Water Resources* must be obtained, whether the same be caused by negligence of the ~~State~~ *state* or of the officers, agents, employees of the ~~State~~ *state*, or otherwise, and it may levy and collect in the manner provided for the raising of funds under this part such sums as may be required to fulfill any obligation incurred hereunder.

SEC. 947. Section 1179.1 of the Health and Safety Code is amended to read:

1179.1. (a) The ~~Secretary of the Health and Welfare Agency shall establish an Office of Rural Health, or an alternative organizational structure, in one of the departments of the Health and Welfare Agency to~~ *State Department of Health Care Services shall* promote a strong working relationship between state government and local and federal agencies, universities, private

and public interest groups, rural consumers, health care providers, foundations, and other offices of rural health, as well as to develop health initiatives and maximize the use of existing resources without duplicating existing effort. The ~~office or alternative organizational structure~~ *department* shall serve as a key information and referral source to promote coordinated planning for the delivery of health services in rural California.

(b) To the extent funds are appropriated by the Legislature, these efforts may include:

(1) Educating the public and recommending appropriate public policies regarding the viability of rural health care in California.

(2) Monitoring and working with state and federal agencies to assess the impact of proposed rules and regulations on rural areas.

(3) Promoting community involvement and community support in maintaining, rebuilding, and diversifying local health services in rural areas.

(4) Encouraging and evaluating the use of advanced communications technology to provide access to health promotion and disease prevention information, specialty expertise, clinical consultation, and continuing education for health professionals.

(5) Encouraging the development of regional health care and public health networks and collaborative efforts, including, but not limited to, emergency transportation networks.

(6) Working with state and local agencies, universities, and private and public interest groups to promote research on rural health issues.

(7) Soliciting the assistance of other offices or programs of rural health in California to carry out the duties of this part.

(8) Disseminating information and providing technical assistance to communities, health care providers, and consumers of health care services.

(9) Promoting strategies to improve health care professional recruitment and retention in rural areas.

(10) Encouraging innovative responses by public and private entities to address rural health issues.

SEC. 948. Section 1179.15 is added to the Health and Safety Code, to read:

1179.15. (a) The State Department of Health Care Services succeeds to, and is vested with, all the duties, powers, purposes,

responsibilities, and jurisdiction of the Rural Health Policy Council.

(b) All officers and employees of the Rural Health Policy Council who are serving in the state civil service, other than as temporary employees, shall be transferred to the State Department of Health Care Services. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the State Department of Health Care Services, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(c) The State Department of Health Care Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the Rural Health Policy Council.

(d) Any regulation or other action adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(e) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

SEC. 949. Section 1179.3 of the Health and Safety Code is amended to read:

1179.3. (a) (1) The ~~Rural Health Policy Council~~ *State Department of Health Care Services* shall develop and administer a competitive grants program for projects located in rural areas of California.

(2) The ~~Rural Health Policy Council~~ *department* shall define "rural area" for the purposes of this section after receiving public input and upon recommendation of the Interdepartmental Rural

Health Coordinating Committee and the Rural Health Programs Liaison.

(3) The purpose of the grants program shall be to fund innovative, collaborative, cost-effective, and efficient projects that pertain to the delivery of health and medical services in rural areas of the state.

(4) The ~~Rural Health Policy Council~~ *department* shall develop and establish uses for the funds to fund special projects that alleviate problems of access to quality health care in rural areas and to compensate public and private health care providers associated with direct delivery of patient care. The funds shall be used for medical and hospital care and treatment of patients who cannot afford to pay for services and for whom payment will not be made through private or public programs.

(5) The ~~Office of Statewide Health Planning and Development~~ *department* shall administer the funds appropriated by the Legislature for purposes of this section. Entities eligible for these funds shall include rural health providers served by the programs operated by the departments represented on the *Task Force on* Rural Health ~~Policy Council~~, which include the State Department of Alcohol and Drug Programs, the Emergency Medical Services Authority, the ~~State Department of Health Services~~ *State Department of Health Care Services*, the State Department of Mental Health, the Office of Statewide Health Planning and Development, and the Managed Risk Medical Insurance Board. The grant funds shall be used to expand existing services or establish new services and shall not be used to supplant existing levels of service. Funds appropriated by the Legislature for this purpose may be expended in the fiscal year of the appropriation or the subsequent fiscal year.

(b) The ~~Rural Health Policy Council~~ *department* shall establish the criteria and standards for eligibility to be used in requests for proposals or requests for application, the application review process, determining the maximum amount and number of grants to be awarded, preference and priority of projects, compliance monitoring, and the measurement of outcomes achieved after receiving comment from the public at a meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The ~~Office of Statewide Health Planning and Development shall periodically report to the Rural Health Policy Council~~ *department shall make periodic reports* on the status of the funded projects. This information shall also be available at the public meetings.

SEC. 950. Section 1179.5 of the Health and Safety Code is amended to read:

1179.5. (a) The ~~Rural Health Policy Office within the Office of Statewide Health Planning and Development serving as staff to the Rural Health Policy Council~~ *State Department of Health Care Services* shall develop an annual workplan ~~which is adopted by the council~~. The workplan shall describe how the ~~council~~ *department* shall meet specific, measurable performance objectives. The workplan shall be designed to further the goals ~~of the Rural Health Policy Council~~ *set forth in this part* to improve access to, and the quality of, health care in rural areas.

(b) The workplan required under subdivision (a) shall include information on how the ~~council~~ *department* intends to address, at a minimum, all of the following topics:

(1) Increased standardization and consolidation of financial and statistical reporting, billing, audits, contracts, and budgets.

(2) Network delivery and integrated delivery systems.

(3) Streamlining the regulatory process.

(4) Assessing the impact of managed care in rural communities.

(5) Reviewing and proposing changes necessary to improve current funding issues.

(6) Increasing the use of technology.

(7) Supporting innovative efforts to improve patient transportation.

(8) Providing strategic planning for local communities.

(9) Improving communication between the state and rural providers.

(10) Increasing workforce availability in rural areas.

(c) ~~The Rural Health Policy Council~~ *Notwithstanding Section 7550.5 of the Government Code, the department* shall provide an annual report to the chairs of the fiscal and policy committees of the Legislature on the outcomes achieved by the office during the preceding 12 months and what changes it will incorporate into the workplan for the following year. The first report pursuant to this section shall be provided to the Legislature by February 1, 1999.

SEC. 951. Section 1276.05 of the Health and Safety Code is amended to read:

1276.05. (a) The Office of Statewide Health Planning and Development shall allow any general acute care hospital facility that needs to relocate services on an interim basis as part of its approval plan for compliance with Article 8 (commencing with Section 130000) or Article 9 (commencing with Section 130050) in the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675) of Part 7 of Division 107) flexibility in achieving compliance with, or in substantial satisfaction of the objectives of, building standards adopted pursuant to Section 1276 with regard to the use of interim space for the provision of hospital services, or both, on a case-by-case basis so long as public safety is not compromised.

(b) The state department shall allow any facility to which subdivision (a) applies flexibility in achieving compliance with, or in substantial satisfaction of, the objectives of licensing standards, or both, with regard to the use of interim space for the provision of hospital services, or both, on a case-by-case basis so long as public safety is not compromised.

(c) Hospital licensees, upon application for program flexibility under this section, shall provide public notice of the proposed interim use of space that houses at least one of the eight basic services that are required in a general acute care hospital in a manner that is likely to reach a substantial number of residents of the community served by the facility and employees of the facility.

(d) No request shall be approved under this section for a waiver of any primary structural system, fire and life safety requirements, or any requirement with respect to accessibility for persons with disabilities.

(e) In approving any request pursuant to this section for flexibility, the office shall consider public comments.

(f) The state department shall establish a unit with two statewide liaisons for the purposes of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675) of Part 7 of Division 107), to do all of the following:

(1) Serve as a central resource for hospital representatives on licensing issues relative to Article 8 *(commencing with Section 130000)* or Article 9 *(commencing with Section 130050)* in the

Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 and provide licensing information to the public, upon request.

(2) Serve as liaison with the Office of Statewide Health Planning and Development, the State Fire Marshal, ~~the Seismic Safety Commission~~ *Department of General Services*, and other entities as necessary on hospital operational issues with respect to Article 8 *(commencing with Section 130000)* or Article 9 *(commencing with Section 130050)* in the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

(3) Ensure statewide compliance with respect to licensing issues relative to hospital buildings that are required to meet standards established by Article 8 or Article 9 in the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

(4) Process requests for program flexibility under subdivision (a).

(5) Accept and consider public comments on requests for flexibility.

(g) Each compliance plan, in providing for an interim use of space in which flexibility is requested, shall identify the duration of time proposed for the interim use of the space. Upon any amendment of a hospital's approved compliance plan, any hospital for which a flexibility plan has been approved pursuant to subdivision (a) shall provide a copy of the amended plan to the State Department of *Public* Health ~~Services~~ within 30 days.

SEC. 952. Section 1569.698 of the Health and Safety Code is amended to read:

1569.698. (a) The State Fire Marshal has proposed that the ~~State Building Standards Commission~~ *Department of General Services* adopt building standards to provide for locked and secured perimeters in residential care facilities for the elderly that care for persons with dementia:

(1) It is acknowledged that these building standards will not become effective until October 1, 1996.

(2) It is the policy of the ~~State Building Standards Commission~~ *Department of General Services* that building standards be adopted exclusively into the California Building Standards Code and not into state statute.

(3) However, in recognition of the immediate need of residential care facilities for the elderly caring for persons with dementia to provide a secured environment, it is the intent of the Legislature

that the building standards for locked and secured perimeters proposed by the State Fire Marshal for adoption in the 1994 California Building Standards Code, as set forth in Section 1569.699, be effective upon the date this article becomes operative.

(b) (1) Upon the filing of emergency regulations with the Secretary of State pursuant to subdivision (c), a residential care facility for the elderly that cares for people with dementia may utilize secured perimeter fences or locked exit doors, if it meets the requirements for additional safeguards required by those regulations.

(2) For the purposes of this article, dementia includes Alzheimer's disease and related disorders diagnosed by a physician, that increases the tendency to wander and that decreases hazard awareness and the ability to communicate.

(3) It is the intent of the Legislature in enacting this article that residential care facilities for the elderly have options for the security of persons with dementia who are residents of those facilities that are in addition to existing security exceptions made for individual residents. It is the further intent of the Legislature that these additional options shall include the use of waivers of certain building standards relating to fire safety to be issued by the state department with the approval, of the State Fire Marshal, to permit the care of a target group of persons with dementia by means of secured perimeter fences, or the use of locked exterior doors. Each waiver request shall include a facility plan of operation that addresses elements of care to be identified by the department in regulations and demonstrates the facility's ability to meet the safety needs of persons with dementia.

(4) The department shall adopt regulations that ensure that staff for secured perimeter facilities receive appropriate and adequate training in the care of residents with Alzheimer's disease or other related dementia.

(5) Nothing in this section is intended to prohibit residential care facilities for the elderly from accepting or retaining persons with dementia whose needs can be fully met using care options permitted by existing law and regulations.

(6) It is not the intent of the Legislature to authorize an increase in the level of care provided in a residential care facility for the elderly or to establish a supplemental rate structure based on the services provided in the facility.

(7) All admissions to residential care facilities for the elderly shall continue to be voluntary on the part of the resident or with the lawful consent of the resident's legal conservator.

(c) The department shall adopt regulations to implement subdivision (b) in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of any emergency regulations following the effective date of the act amending this section during the 1995–96 Regular Legislative Session shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(d) In addition to the security options authorized by subdivision (b), residential care facilities for the elderly that accept or retain as residents persons with dementia, and that choose to utilize the security options of egress-control devices of the time-delay type in addition to secured perimeter fences or locked exit doors, shall comply with Section 1569.699, or regulations adopted by the ~~State Building Standards Commission~~ *Department of General Services*, whichever is operative.

(e) Except as specified in Article 6.5 (commencing with Section 1569.691), no residential care facility for the elderly shall utilize special egress-control devices of the time-delay type, secured perimeter fences, or locked exit doors unless the facility meets the requirements of Section 1569.699 or the ~~Building Standards Commission~~ *Department of General Services* adopts building standards to implement this section.

(f) Any person who is not a conservatee and is entering a locked or secured perimeter facility pursuant to this section, shall sign a statement of voluntary entry. The facility shall retain the original statement and shall send a copy of the statement to the department.

SEC. 953. Section 1569.699 of the Health and Safety Code is amended to read:

1569.699. (a) When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or

dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

(1) Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

(2) Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.

(3) Be capable of being deactivated by a signal from a switch located in an approved location.

(4) Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72 N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.

(5) Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.

(6) The unlatching shall not require more than one operation.

(7) A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING. THIS DOOR WILL OPEN IN ____ SECONDS. ALARM WILL SOUND.

Sign letter shall be at least one inch (25mm) in height and shall have a stroke of not less than 1/8 inch (3.3mm).

(8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

(b) Grounds of residential care facilities for the elderly serving persons with Alzheimer's disease or dementia may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings.

Dispersal areas shall be sized to provide an area of not less than three square feet (0.28 ^{2}) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

(c) Exit doors may be locked in residential care facilities for the elderly that meet the requirements for Group I, Division 3 occupancies under the California Building Standards Code and that care for people with dementia.

(d) This section shall become inoperative on the date the ~~State Building Standards Commission~~ *Department of General Services* adopts regulations regarding secured perimeters in residential care facilities for the elderly, and, as of the January 1 next following that date, is repealed, unless a later enacted statute, that becomes operative on or before that January 1, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 954. Section 1596.87 of the Health and Safety Code is amended to read:

1596.87. The department shall institute a staff development and training program within the organizational structure to develop among staff the knowledge, understanding of children and child care, and regulatory administration necessary to successfully carry out this act. Specifically, the department shall do all of the following:

(a) Provide staff with 36 hours of training per year that reflect the unique needs of children. The training shall include training relating to regulation administration, including communication skills, writing skills, and human relations skills.

(b) Find ways to encourage applications from individuals with child care provider experience or educational backgrounds applicable to the provision of child care.

(c) Provide new staff with comprehensive training within the first six months of employment. This training shall, at a minimum, include the following core areas: administrative action process, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relation skills, interviewing techniques, investigation processes, and regulation administration.

This program shall also provide new staff who have earned fewer than 16 semester units in child development or early childhood

education from an accredited college at least 40 hours of preservice training in child development or early childhood education.

(d) Submit for approval to the ~~advisory committee established in Section 8286 of the Education Code~~ *State Department of Education* a plan for meeting the provisions of subdivisions (a) and (c).

SEC. 955. Section 1596.873 of the Health and Safety Code is repealed.

~~1596.873. The advisory committee established pursuant to Section 8286 of the Education Code shall perform all of the following functions with regard to this act:~~

~~(a) Assist the department in developing and reviewing guidelines for the administration of this act.~~

~~(b) Review the implementation of this act.~~

~~(c) Make written recommendations to the Legislature, the Governor, and the department by December 31, 1985, with regard to possible improvements to facilitate the implementation of this act.~~

~~(d) Advise the director regarding regulations, policy, and administrative practices pertaining to the licensing of child day care facilities.~~

SEC. 956. Section 1797.64 of the Health and Safety Code is amended to read:

1797.64. *(a)* "Commission" means the Commission on Emergency Medical Services created pursuant to the provisions of Section 1799.

(b) Notwithstanding subdivision (a), on and after the effective date of the act or the Governor's Reorganization Plan that amended this section during the 2007–08 Regular Session, any reference to the "Commission on Emergency Medical Services" in any statute or regulation and any reference to "commission" in this division is hereby deemed to refer to the Emergency Medical Services Authority, unless the context requires otherwise.

SEC. 957. Article 1 (commencing with Section 1799) of Chapter 8 of Division 2.5 of the Health and Safety Code is repealed.

SEC. 958. Article 1 (commencing with Section 1799) is added to Chapter 8 of Division 2.5 of the Health and Safety Code, to read:

Article 1. The Commission on Emergency Medical Services: Succession of Duties to the Authority

1799. The Emergency Medical Services Authority succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Commission on Emergency Medical Services.

1799.1. All officers and employees of the Commission on Emergency Medical Services who are serving in the state civil service, other than as temporary employees, shall be transferred to the Emergency Medical Services Authority. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Emergency Medical Services Authority, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

1799.2. The Emergency Medical Services Authority shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the Commission on Emergency Medical Services.

1799.3. (a) Any regulation or other action adopted, prescribed, taken, or performed by the Commission on Emergency Medical Services in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the Emergency Medical Services Authority to whom the program, duty, responsibility, or authorization is transferred.

(b) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

SEC. 959. Section 13108 of the Health and Safety Code is amended to read:

13108. (a) Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, any state institution or other state-owned building or in any state-occupied building and submit those building standards to the ~~State Building Standards Commission~~ *Department of General Services* for approval pursuant to ~~the provisions of~~ Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 ~~of this code~~. The State Fire Marshal shall prepare and adopt regulations other than building standards for the installation and maintenance of equipment and furnishings that present unusual fire hazards in any state institution or other state-owned building or in any state-occupied building. The State Fire Marshal shall adopt those regulations as are reasonably necessary to define what buildings shall be considered as state-occupied buildings.

(b) The fire chief of any city, county, or fire protection district, or that official's authorized representative, may enter any state institution or any other state-owned or state-occupied building for the purpose of preparing a fire suppression preplanning program or for the purpose of investigating any fire in a state-occupied building.

(c) Except as otherwise provided in this section, the State Fire Marshal shall enforce the regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code in all state-owned buildings, state-occupied buildings, and state institutions throughout the state. Upon written request from the chief fire official of any city, county, or fire protection district, the State Fire Marshal may authorize that chief fire official and his or her authorized representatives, in their geographical area of responsibility, to make fire prevention inspections of state-owned or state-occupied buildings, other than state institutions, for the purpose of enforcing the regulations relating to fire and panic safety adopted by the State Fire Marshal pursuant to this section and building standards relating to fire and panic safety published in the California Building Standards Code. Authorization from the

State Fire Marshal shall be limited to those fire departments or fire districts which maintain a fire prevention bureau staffed by paid personnel.

(d) Any requirement or order made by any chief fire official pursuant to this section may be appealed to the State Fire Marshal. The State Fire Marshal shall, upon receiving an appeal and subject to the provisions of Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 ~~of this code~~, determine if the requirement or order made is reasonably consistent with the fire and panic safety regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code.

SEC. 960. Section 13132.7 of the Health and Safety Code is amended to read:

13132.7. (a) Within a very high fire hazard severity zone designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code and within a very high hazard severity zone designated by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class B as defined in the Uniform Building Code, as adopted and amended by the ~~State Building Standards Commission~~ *Department of General Services*.

(b) In all other areas, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class C as defined in the Uniform Building Code, as adopted and amended by the ~~State Building Standards Commission~~ *Department of General Services*.

(c) Notwithstanding subdivision (b), within state responsibility areas classified by the State Board of Forestry and Fire Protection pursuant to Article 3 (commencing with Section 4125) of Chapter

1 of Part 2 of Division 4 of the Public Resources Code, except for those state responsibility areas designated as moderate fire hazard responsibility zones, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class B as defined in the Uniform Building Code, as adopted and amended by the ~~State Building Standards Commission~~ *Department of General Services*.

(d) (1) Notwithstanding subdivision (a), (b), or (c), within very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code or by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, the entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire retardant roof covering that is at least class A as defined in the Uniform Building Code, as adopted and amended by the ~~State Building Standards Commission~~ *Department of General Services*.

(2) Paragraph (1) does not apply to any jurisdiction containing a very high fire hazard severity zone if the jurisdiction fulfills both of the following requirements:

(A) Adopts the model ordinance approved by the State Fire Marshal pursuant to Section 51189 of the Government Code or an ordinance that substantially conforms to the model ordinance of the State Fire Marshal.

(B) Transmits, upon adoption, a copy of the ordinance to the State Fire Marshal.

(e) The ~~State Building Standards Commission~~ *Department of General Services* shall incorporate the requirements set forth in subdivisions (a), (b), and (c) by publishing them as an amendment to the California Building Standards Code in accordance with Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13.

(f) Nothing in this section shall limit the authority of a city, county, city and county, or fire protection district in establishing more restrictive requirements, in accordance with current law, than those specified in this section.

(g) This section shall not affect the validity of an ordinance, adopted prior to the effective date for the relevant roofing standard specified in subdivisions (a) and (b), by a city, county, city and county, or fire protection district, unless the ordinance mandates a standard that is less stringent than the standards set forth in subdivision (a), in which case the ordinance shall not be valid on or after the effective date for the relevant roofing standard specified in subdivisions (a) and (b).

(h) Any qualified historical building or structure as defined in Section 18955 may, on a case-by-case basis, utilize alternative roof constructions as provided by the State Historical Building Code.

(i) The installer of the roof covering shall provide certification of the roof covering classification, as provided by the manufacturer or supplier, to the building owner and, when requested, to the agency responsible for enforcement of this part. The installer shall also install the roof covering in accordance with the manufacturer's listing.

(j) No wood roof covering materials shall be sold or applied in this state unless both of the following conditions are met:

(1) The materials have been approved and listed by the State Fire Marshal as complying with the requirements of this section.

(2) The materials have passed at least five years of the 10-year natural weathering test. The 10-year natural weathering test required by this subdivision shall be conducted in accordance with standard 15-2 of the 1994 edition of the Uniform Building Code at a testing facility recognized by the State Fire Marshal.

(k) The Insurance Commissioner shall accept the use of fire retardant wood roof covering material that complies with the requirements of this section, used in the partial repair or replacement of nonfire retardant wood roof covering material, as complying with the requirement in Section 2695.9 of Title 10 of the California Code of Regulations relative to matching replacement items in quality, color, and size.

(*l*) No common interest development, as defined in Section 1351 of the Civil Code, may require a homeowner to install or repair a

roof in a manner that is in violation of this section. The governing documents, as defined in Section 1351 of the Civil Code, of a common interest development within a very high fire severity zone shall allow for at least one type of fire retardant roof covering material that meets the requirements of this section.

SEC. 961. The heading of Article 2 (commencing with Section 13140) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code is amended to read:

Article 2. ~~The State Board of~~ Fire Services

SEC. 962. Section 13140 of the Health and Safety Code is repealed.

~~13140. There is hereby created in the Office of the State Fire Marshal a State Board of Fire Services which shall consist of 18 members. The State Board of Fire Services succeeds to all of the powers, duties, and responsibilities of the State Fire Advisory Board, which is hereby abolished. Whenever the term "State Fire Advisory Board" appears in any other law, it means the State Board of Fire Services.~~

SEC. 963. Section 13140 is added to the Health and Safety Code, to read:

13140. (a) Any reference to the "State Board of Fire Services" or the "State Fire Advisory Board" shall refer to the Department of Forestry and Fire Protection.

(b) As used in this article, "board" shall be deemed to be a reference to the Department of Forestry and Fire Protection.

SEC. 964. Section 13140.5 of the Health and Safety Code is repealed.

~~13140.5. The board shall be composed of the following voting members: the State Fire Marshal, the Chief Deputy Director of the Department of Forestry and Fire Protection who is not the State Fire Marshal, the Director of the Office of Emergency Services, the Chairperson of the California Fire Fighter Joint Apprenticeship Program, one representative of the insurance industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government.~~

~~The following members shall be appointed by the Governor: one representative of the insurance industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government. Each member appointed shall be a resident of this state. The volunteer firefighter shall be selected from a list of names submitted by the California State Firefighters Association. One fire chief shall be selected from a list of names submitted by the California Fire Chiefs' Association; one fire chief shall be selected from a list of names submitted by the Fire Districts Association of California; and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. One fire service labor representative shall be selected from a list of names submitted by the California Labor Federation; one fire service labor representative shall be selected from a list of names submitted by the California Professional Firefighters; one fire service labor representative shall be selected from a list of names submitted by the International Association of Fire Fighters; one fire service labor representative shall be selected from a list of names submitted by the California Department of Forestry Firefighters; and one fire service labor representative shall be selected from a list of names submitted by the California State Firefighters Association. The city government representative shall be selected from elected or appointed city chief administrative officers or elected city mayors or council members. The fire district representative shall be selected from elected or appointed directors of fire districts. The county government representative shall be selected from elected or appointed county chief administrative officers or elected county supervisors. The appointed members shall be appointed for a term of four years. Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.~~

SEC. 965. Section 13140.6 of the Health and Safety Code is repealed.

~~13140.6. A quorum of the board shall consist of not less than nine members of the board. Proxy representation shall not be permitted.~~

SEC. 966. Section 13140.7 of the Health and Safety Code is repealed.

~~13140.7. The State Fire Marshal shall act as chairman of the board and provide necessary staff services. A vice chairman shall be selected by majority vote of the members.~~

SEC. 967. Section 13141 of the Health and Safety Code is repealed.

~~13141. The board shall meet at the call of the State Fire Marshal, or at the request of any two members, but not less than annually, and shall receive no salary. Board members shall be paid actual and necessary expenses related to activities of the board. Meetings of the board shall be announced in writing to all members at least 15 days in advance of the meeting date.~~

SEC. 968. Section 13142.6 of the Health and Safety Code is amended to read:

13142.6. (a) The ~~board, under the direction of the vice chairperson,~~ *Department of Forestry and Fire Protection* shall sit as a board of appeals on the application of the State Fire Marshal's regulations excepting application of building standards published in the California Building Standards Code, by the State Fire Marshal or his or her salaried assistants. When any affected person believes that the State Fire Marshal's regulations, excepting building standards, are being applied incorrectly, the person may appeal the decision of the State Fire Marshal to the ~~board~~ *Department of Forestry and Fire Protection*. The ~~board~~ *Department of Forestry and Fire Protection* shall not consider the appeal unless the matter has come to the attention of the State Fire Marshal and he or she has rendered a decision in writing. Any appeal to the ~~board~~ *Department of Forestry and Fire Protection* shall be made by the affected person or his or her agent in writing in the form and manner prescribed by the ~~board~~ *Department of Forestry and Fire Protection*. The decision of the ~~board~~ *Department of Forestry and Fire Protection* shall be binding upon the State Fire Marshal. Any decision made by the ~~board~~ *Department of Forestry and Fire Protection* shall be for the instant case only and shall not be construed as setting precedent for general application.

(b) When an affected person believes that building standards are being applied incorrectly by the State Fire Marshal or his or her salaried assistants, that person may appeal to the ~~California~~

~~Building Standards Commission pursuant to Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code~~ *Department of General Services*.

SEC. 969. Section 13142.8 of the Health and Safety Code is repealed.

~~13142.8. When the board sits as a board of appeals:~~

~~(a) The State Fire Marshal shall not sit as a member of the board.~~

~~(b) A member of the board shall not sit as a member or participant in the decision of any particular appeal if that member has a financial or other interest which would influence his or her decision on the particular appeal.~~

SEC. 970. Section 13143.5 of the Health and Safety Code, as amended by Chapter 906 of The Statutes of 1993, is amended to read:

13143.5. (a) Notwithstanding Part 2 (commencing with Section 13100) of Division 12, Part 1.5 (commencing with Section 17910) of Division 13, and Part 2.5 (commencing with Section 18901) of Division 13, any city, county, or city and county may, by ordinance, make changes or modifications that are more stringent than the requirements published in the California Building Standards Code relating to fire and panic safety and the other regulations adopted pursuant to this part. Any changes or modifications that are more stringent than the requirements published in the California Building Standards Code relating to fire and panic safety shall be subject to subdivision (b) of Section 18941.5.

(b) Nothing in this section shall authorize a local jurisdiction to mandate, nor prohibit a local jurisdiction from mandating, the installation of residential fire sprinkler systems within newly constructed dwelling units or in new additions to existing dwelling units, including, but not limited to, manufactured homes as defined in Section 18007.

(c) Nothing in this section shall authorize a local jurisdiction to mandate, nor prohibit a local jurisdiction from mandating, the retrofitting of existing dwelling units for the installation of residential fire sprinkler systems, including, but not limited to, manufactured homes as defined in Section 18007.

(d) Nothing in this section shall apply in any manner to litigation filed prior to January 1, 1991, regarding an ordinance or regulation which mandates the installation of residential fire sprinkler systems

within newly constructed dwelling units or new additions to existing dwelling units.

(e) This section shall not apply to fire and panic safety requirements for the public schools adopted by the State Fire Marshal pursuant to Section 13143.

(f) (1) A city, county, or city and county that adopts an ordinance relating to fire and panic safety pursuant to this section shall delegate the enforcement of the ordinance to either of the following:

(A) The chief of the fire authority of the city, county, or city and county, or his or her authorized representative.

(B) The chief building official of the city, county, or city and county, or his or her authorized representative.

(2) Any fee charged pursuant to the enforcement authority of this subdivision shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, pursuant to Section 66014 of the Government Code.

(g) On or before October 1, 1991, and each October 1 thereafter, the Department of Housing and Community Development, in conjunction with the ~~office~~ *Office* of the State Fire Marshal, shall transmit a report to the ~~State Building Standards Commission~~ *Department of General Services* on the more stringent requirements, adopted by a city, county, or city and county, pursuant to this section or adopted by a fire protection district and ratified pursuant to Section 13869.7, to the building standards relating to fire and panic safety adopted by the State Fire Marshal and contained in the California Building Standards Code. The report shall be for informational purposes only and shall include a summary by the department and the office of the reasons cited as the necessity for the more stringent requirements. The report required pursuant to this subdivision shall apply to any more stringent requirements adopted or ratified on or after January 1, 1991.

(h) All structures governed by Part 2.7 (commencing with Section 18950) of Division 13 are exempt from the permissive authority granted by subdivision (a).

SEC. 971. Section 16022 of the Health and Safety Code is amended to read:

16022. The State Architect shall do all of the following:

(a) Observe the implementation and administration of this chapter.

(b) Establish and adopt, in consultation with the League of Cities, County Supervisors Association, and California Building Officials, those regulations deemed necessary for carrying out this chapter.

(c) Provide advice and assistance to local jurisdictions regarding essential services buildings.

(d) Hear appeals relative to the administration of this chapter.

The State Architect may establish an advisory committee to assist the State Architect with his or her responsibilities under this chapter. The State Architect shall periodically inform the ~~Seismic Safety Commission~~ *Department of General Services* and the State Fire Marshal with respect to the implementation and the administration of this chapter.

SEC. 972. Section 16101 of the Health and Safety Code is amended to read:

16101. (a) The ~~Seismic Safety Commission~~ *Department of General Services*, in cooperation with the State Architect, shall develop a state policy on acceptable levels of earthquake risk for new and existing state-owned buildings and submit their policy to the Legislature for consideration by January 1, 1991.

(b) The State Architect, in conjunction with state agency owners and operators of buildings, shall identify activities carried out within state-owned buildings which are necessary for postearthquake operation.

SEC. 973. Section 16109 of the Health and Safety Code is amended to read:

16109. In the event that a project involving buildings utilizing earthquake mitigation technologies and other new seismic resistant design technologies requires design review and plan approval by more than one public agency, the ~~Coordinating Council of the Building Standards Commission~~ *Department of General Services* shall, to the maximum extent feasible, consolidate the various hearings which may be required in order to minimize the time required for the hearings. This consolidation shall be for procedural purposes only and shall not be construed as consolidating the statutory responsibilities of the public agencies conducting the consolidated hearings.

SEC. 974. Section 16600 of the Health and Safety Code is amended to read:

16600. (a) The State Architect and the ~~State Building Standards Commission~~ *Department of General Services*, in consultation with, and with the concurrence of, the University of California, the California State University, *and* the Structural Engineers Association of California, ~~and the Seismic Safety Commission,~~ shall develop and adopt building seismic retrofit guidelines for state buildings, including those owned by the University of California and by the California State University, by January 1, 1993.

(b) Building seismic retrofit guidelines shall include provisions for the abatement of falling hazards that are structural or nonstructural components of buildings and that pose serious threats to life, including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding.

(c) Building seismic retrofit guidelines shall include provisions for the strengthening of structures of buildings, or the means necessary to reduce the response of a building to ground shaking during an earthquake, so as to significantly reduce the hazards to life, while concomitantly providing for safe egress of occupants during and immediately after an earthquake.

(d) Building seismic retrofit guidelines shall be consistent with the state Historical Building Code (Part 2.7 (commencing with Section 18950)~~,~~ *of* Division 13) and shall include provisions for the preservation of historical buildings.

(e) Building seismic retrofit guidelines shall incorporate building seismic retrofit standards developed pursuant to Sections 8875.5 and 8879.5 of the Government Code.

(f) The State Architect and the ~~State Building Standards Commission~~ *Department of General Services*, in cooperation with the University of California, the California State University, *and* the Structural Engineers Association of California, ~~and the Seismic Safety Commission,~~ shall develop and adopt seismic retrofit building standards for state buildings, including those owned by the University of California and by the California State University by July 1, 1996. The standards for state buildings owned by the University of California and the California State University shall not be more stringent than the standards for other state buildings.

(g) The State Architect and the ~~State Building Standards Commission~~ *Department of General Services,* in cooperation with the Structural Engineers Association of California, shall submit the regulations, findings, and data developed according to this chapter to model code writing agencies and organizations for review and development into code format for consideration and adoption into future model codes, as defined in Section 18916, by August 1, 1997.

SEC. 975. Section 16601 of the Health and Safety Code is amended to read:

16601. (a) The ~~State Building Standards Commission~~ *Department of General Services* shall review and approve the guidelines adopted by the State Architect and the ~~State Building Standards Commission~~ *Department of General Services* pursuant to Section 16600 by January 1, 1994, and take administrative actions to make the guidelines applicable to all state buildings, including those owned by the University of California or the California State University.

(b) The ~~State Building Standards Commission~~ *Department of General Services* shall review and approve the seismic retrofit building standards as developed by the State Architect and the ~~State Building Standards Commission~~ *Department of General Services* pursuant to Section 16600 by July 1, 1997, and take administrative actions to make the standards applicable to all state buildings, including those owned by the University of California or the California State University.

SEC. 976. Section 17913 of the Health and Safety Code is amended to read:

17913. (a) The department shall notify the entities listed in subdivision (c) of the dates that each of the uniform codes published by the specific organizations described in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 17922 are approved by the ~~California Building Standards Commission~~ *Department of General Services* pursuant to Section 18930 and the effective date of the model codes as established by the ~~California Building Standards Commission~~ *Department of General Services*.

(b) The department may publish information bulletins regarding code enforcement as emergencies occur or at any other time the department determines appropriate.

(c) The department shall distribute the information described in subdivision (a), and may distribute the information described in subdivision (b), to the following entities:

(1) The building department in each county and city.

(2) Housing code officials, fire service officials, professional associations concerned with building standards, and any other persons or entities the department determines appropriate.

SEC. 977. Section 17920.9 of the Health and Safety Code is amended to read:

17920.9. (a) The department shall propose adoption, amendment, or repeal by the ~~California Building Standards Commission~~ *Department of General Services* pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, of those regulations as are necessary for the provision of minimum fire safety and fire-resistant standards relating to the manufacture, composition, and use of foam building systems manufactured for use, or used, in construction of buildings subject to this part, mobilehomes subject to Part 2 (commencing with Section 18000), or factory-built housing subject to Part 6 (commencing with Section 19960), for the protection of the health and safety of persons occupying those buildings, mobilehomes, or factory-built housing. The department shall enforce building standards published in the California Building Standards Code relating to foam building systems, and other rules and regulations adopted by the department or by federal law. Each manufacturer of foam building systems shall have any foam building system manufactured for use in any building, factory-built housing, or mobilehome listed and labeled by an approved testing agency certifying that the system meets fire safety and fire-resistant building standards published in the California Building Standards Code. The department shall consult with all available public and private sources to assist in the development of the building standards and other rules and regulations.

(b) The department shall make inspections of the manufacture of such foam building systems which it determines are necessary to insure compliance with the requirements of subdivision (a).

(c) No person shall sell, offer for sale, or use in construction of buildings subject to this part, mobilehomes subject to Part 2 (commencing with Section 18000), or factory-built housing subject to Part 6 (commencing with Section 19960), in this state, any foam

building system, and no person shall sell or offer for sale in this state any such building, mobilehome, or factory-built housing of which a foam building system is a component, which foam building system does not comply with, or has not been listed and labeled by an approved testing agency certifying that the foam building system is in compliance with, the requirements of subdivision (a) on and after the 180th day after the building standards or other rules or regulations become effective.

This subdivision shall not apply to any buildings, mobilehomes, or factory-built housing constructed prior to the 180th day after those standards become effective.

(d) No person shall sell, offer for sale, or use in construction of any building subject to this part, a mobilehome subject to Part 2 (commencing with Section 18000), or factory-built housing subject to Part 6 (commencing with Section 19960), in this state, any foam building system, and no person shall sell or offer for sale in this state any such building, mobilehome, or factory-built housing of which a foam building system is a component, if the manufacturer thereof refuses to permit the department to conduct the inspections required by subdivision (b) on and after the 180th day after the building standards or other rules or regulations become effective.

(e) As used in this section:

(1) "Foam" means a material made by mixing organic polymers with air or other gases in a manner that forms a solid substance with holes filled with air or gas when the mixture is allowed to set.

(2) "Foam building system" means a system of building materials composed of, in whole or in part, of foam. It includes, but is not limited to, all combinations of systems such as those composed of foam inserted between and bonded to two boundary surface materials or those composed exclusively of foam.

(3) "Building standard" means building standard as defined in Section 18909.

SEC. 978. Section 17921 of the Health and Safety Code is amended to read:

17921. (a) Except as provided in subdivision (b), the department shall propose the adoption, amendment, or repeal of building standards to the ~~California Building Standards Commission~~ *Department of General Services* pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part

2.5, and the department shall adopt, amend, and repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public governing the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court, area, sanitation, ventilation and maintenance of all hotels, motels, lodging houses, apartment houses, and dwellings, and buildings and structures accessory thereto. Except as otherwise provided in this part, the department shall enforce those building standards and those other rules and regulations. The other rules and regulations adopted by the department may include a schedule of fees to pay the cost of enforcement by the department under Sections 17952 and 17965.

(b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

SEC. 979. Section 17958 of the Health and Safety Code is amended to read:

17958. Except as provided in Sections 17958.8 and 17958.9, any city or county may make changes in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose those requirements or make changes or modifications in those requirements upon express findings, the provisions published in

the California Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it and shall become effective 180 days after publication by the ~~California Building Standards Commission~~ *Department of General Services*. Amendments, additions, and deletions to the California Building Standards Code adopted by a city or county pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the ~~California Building Standards Commission~~ *Department of General Services*.

SEC. 980. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. (a) Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological or topographical conditions. Such a finding shall be available as a public record. A copy of those findings, together with the modification or change expressly marked and identified to which each finding refers, shall be filed with the ~~California Building Standards Commission~~ *Department of General Services*. No modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the ~~California Building Standards Commission~~ *Department of General Services*.

(b) The ~~California Building Standards Commission~~ *Department of General Services* may reject a modification or change filed by the governing body of a city or county if no finding was submitted.

SEC. 981. Section 17959 of the Health and Safety Code is amended to read:

17959. (a) No later than December 31, 2003, the department shall consider proposed universal design guidelines for home construction or home modifications which may be submitted by the California Department of Aging, the California Commission on Aging, the Department of Rehabilitation, the ~~office~~ *Office* of the State Architect ~~of the Department of General Services~~, the ~~office~~ *Office* of the State Fire Marshal, the ~~California Building Standards Commission~~ *Department of General Services*, or other

state departments. Thereafter, the department, without significantly impacting housing cost and affordability, shall, in consultation with these agencies, develop guidelines and at least one model ordinance for new construction and home modifications that is consistent with the principles of universal design as promulgated by the Center for Universal Design at North Carolina State University or other similar design guidelines that enhance the full life cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests in order to accommodate a wide range of individual preferences and functional abilities. In developing these guidelines and model ordinances, the department also shall meet with, and solicit information from, individuals and organizations representing individuals and entities with interests in construction, local governments, the health and welfare of senior citizens and persons with disabilities, architects, and others with expertise in these design and living issues. The department shall ensure that at least three meetings subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of the Government Code) shall occur, that shall include opportunities for government agencies, individuals, and organizations identified in this subdivision to participate and comment on proposed guidelines or draft model ordinances.

(b) (1) In addition to the authority granted by Sections 17958.5 and 18941.5, and for the purposes of this section, a city, county, or city and county may, by ordinance, make changes or modifications in addition to or in excess of the requirements contained in the California Building Standards Code adopted pursuant to Sections 17922 and 18928 if the city, county, or city and county makes a finding that the changes and modifications are reasonably necessary and are substantially the same as the guidelines or model ordinances adopted pursuant to subdivision (a). In no case shall the changes or modifications be less restrictive than the requirements published in the California Building Standards Code.

(2) A city, county, or city and county adopting an ordinance pursuant to this subdivision shall file a copy of the ordinance and the findings with the department. No such ordinance shall become effective or operative for any purpose until the findings and the ordinance have been filed with the department. The department

may review the findings and each ordinance to evaluate their consistency with this subdivision, and shall provide written comments to the adopting entity as to any such evaluation.

(c) (1) In a city, county, or city and county where a universal design ordinance has not been adopted pursuant to subdivision (b), developers of housing for senior citizens, persons with disabilities, and other persons and families are encouraged, but not required, to seek information and assistance from the department and the California Department of Aging regarding the principles of universal design specified in subdivision (a) and consider those principles in their construction.

(2) The department, the California Department of Aging, and any other interested state agency also may, to the extent feasible, disseminate information to interested persons and entities in all parts of the state regarding the principles of universal design and their relationship to new construction and home modifications.

(d) Subdivision (b) shall become operative on January 1, 2005.

SEC. 982. Section 17959.6 of the Health and Safety Code is amended to read:

17959.6. (a) Ninety days after the Department of Housing and Community Development certifies and makes available a standard form pursuant to subdivision (h), but in no event sooner than July 1, 2004, for housing developments for which a building permit application is submitted on or after that date, a developer of any new for-sale residential housing development, including, but not limited to, a single family dwelling, duplex, triplex, townhouse, condominium, or other homes, shall provide to a buyer a list of universal accessibility features that would make the home entrance, interior routes of travel, the kitchen, and the bathrooms fully accessible to persons with disabilities.

(b) (1) (A) The list shall include the features described in paragraphs (2) to (7), inclusive, and any others that the developer deems necessary or appropriate to effectuate the purposes of this section.

(B) To the extent that any of the features described in paragraphs (2) to (7), inclusive, are included in Chapter 11A of the California Building Code (Part 2 of Title 24 of the California Code of Regulations), they shall be listed consistent with, and shall be installed in a manner at least consistent with, that chapter. A developer that lists and installs materials and features in a manner

at least consistent with Chapter 11A or successor chapters of the California Building Code, shall be deemed to be in compliance with the requirements of this subparagraph. Other features shall be listed and installed in a manner appropriate to effectuate the purposes of this section.

(C) Notwithstanding subparagraph (B), the developer and buyer may agree in writing to different standards than those provided in subparagraph (B) if the different standards and their deviation from the standards in subparagraph (B) are clearly disclosed.

(2) General external adaptations:

(A) Accessible route of travel to the dwelling unit.

(B) Accessible landscaping of the side and rear yards.

(C) Accessible route from the garage or parking area to the dwelling unit primary and secondary entries.

(3) Doors, openings, and entries:

(A) Accessible primary front door, doorway, and threshold.

(B) Accessible interior doors and doorways.

(C) Accessible secondary exterior doors, doorways, and thresholds.

(D) Accessible levered handles on all specified doors.

(E) An entry door sidelight or high and low peephole viewers.

(F) Visual fire alarms and visual doorbells.

(G) Accessible sliding glass door.

(4) General interior adaptations:

(A) Accessible routes to at least one bedroom, bathroom, and kitchen from the primary entrance.

(B) Accessible switches, outlets, and thermostats.

(C) Visual fire alarms and visual doorbells.

(D) Rocker light switches.

(E) Closet rods and shelves adjustable from three feet to five feet six inches high.

(F) A residential elevator or lift.

(G) If provided, a service porch with accessible workspace, cabinets, and appliances.

(5) Kitchen:

(A) Adequate accessible clear floorspace at appliances.

(B) Repositionable sink and countertop workspaces.

(C) Accessible cabinets and drawers, including pullout shelves, bread boards, and Lazy Susans.

(D) Accessible sink features and controls.

(E) Accessible built-in or provided appliances, including refrigerator, stove, oven, dishwasher, and countertop microwave or convection oven.

(F) Enhancements such as a contrasting color edge at countertops, contrasting floor designs marking accessible routes and work areas, antiscald device on plumbing fixtures, and undercabinet lighting.

(6) Bathrooms and powder rooms (applicable to one or more bathrooms, at the option of the buyer):

(A) Grab bar backing and grab bars in all requested locations.

(B) Accessible clear floorspace and turning circles.

(C) Accessible sink (lavatory) with adequate knee space and protection.

(D) Accessible toilet (water closet).

(E) Accessible roll-in shower in lieu of a standard tub or shower.

(F) Accessible faucet handles and an adjustable handheld showerhead.

(G) Enhancements such as a contrasting color edge at countertops, contrasting floor designs marking accessible routes and work areas, and antiscald device on plumbing fixtures.

(7) Any other external or internal feature requested at a reasonable time by the buyer that is reasonably available and reasonably feasible to install or construct and makes the residence more usable for a person with disabilities in order to accommodate any type of disability.

(c) For each feature on the list required by subdivision (b), the developer shall indicate whether the feature is standard, limited, optional, or not available.

(d) If a developer chooses to offer those features listed in subdivision (b) as modifications that may be made to a home, the developer shall indicate on the list required by subdivision (b) at what point in the construction process the buyer must notify the developer that the buyer wishes to purchase the features.

(e) If a local jurisdiction adopts a model ordinance developed pursuant to Section 17959 that requires developers to provide standard or optional accessibility features in homes described in subdivision (b), a developer subject to that ordinance is required to include on the list required by subdivision (b) only those features beyond those required by the ordinance.

(f) Nothing in this section shall be construed to require a developer to provide the features listed in subdivision (b) during the construction process or at any other time, unless the developer has offered to provide a feature and the buyer has requested it and agreed to provide payment.

(g) Any willful violation by a developer of this section shall be punishable by a civil penalty of five hundred dollars ($500).

(h) The department may adopt regulations that it determines are necessary and appropriate for the use and enforcement of this section. The regulations may include, but not be limited to, providing specificity to any features not otherwise covered as mandatory features in Chapter 11A or 11B of the California Building Code, additional mandatory requirements for forms, and additional procedures for offer or acceptance of features. The department may develop, certify, and make available a standard form providing the information required by this section, except for costs, and that standard form shall be exempt from adoption pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). A developer's use of a form substantially the same as that developed and distributed by the department shall be deemed to comply with this section.

(i) Pursuant to Section 17959, upon adoption by the department of guidelines or a model ordinance that defines those features deemed to provide universal accessibility, those guidelines or that model ordinance shall supersede the features listed in subdivision (b).

(j) This section shall not be construed to require action by the ~~California Building Standards Commission~~ *Department of General Services* pursuant to the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

SEC. 983. Section 18613.5 of the Health and Safety Code is amended to read:

18613.5. The Department of Housing and Community Development, with the review and advice of the ~~Seismic Safety Commission~~ *Department of General Services*, shall adopt such rules and regulations as are necessary to ensure that purchasers of all manufactured homes and mobilehomes installed for human occupancy pursuant to Section 18613 are offered earthquake

resistant bracing systems which meet generally accepted seismic safety standards for the reduction of damage and for the protection of the health and safety of the occupants. Such rules and regulations also shall include provisions for establishing a process and a fee schedule for the design review and certification by the department.

To the extent practical, the department shall be responsible for notifying owners of existing licensed manufactured homes and mobilehomes that a certification process has been established so that when considering purchase of a bracing system the owners can determine if the product or system is certified by the department.

The fees established by the department shall be sufficient to pay for the development of the design criteria and standards and the costs for the design review and certification of the products or systems.

SEC. 984. Section 18901 of the Health and Safety Code is amended to read:

18901. (a) This part shall be known and may be cited as the California Building Standards Law.

(b) ~~The California Building Standards Commission shall continue within the State and Consumer Services Agency.~~ *Any reference in any statute or regulation to the "California Building Standards Commission" and any reference in this part to "commission" shall refer to the Department of General Services. Any reference in this part to "department" means the Department of General Services, unless the context requires otherwise.*

(c) The Director of General Services shall appoint a subordinate officer, who shall hold office at the pleasure of the Director of General Services to carry out the day-to-day functions of this part. The subordinate officer shall make public the processes of the Department of General Services under this part. The subordinate officer shall appoint, in accordance with civil service and other provisions of law, officers and employees necessary to carry out the intent and purposes of this part.

SEC. 985. Section 18907 of the Health and Safety Code is amended to read:

18907. "Approval" means, with respect to the procedure for promulgation of a building standard, the action of approval by the ~~California Building Standards Commission~~ *Department of General Services*. Until there is approval of the standard by the ~~commission~~

Department of General Services, it shall be a proposed building standard or regulation.

SEC. 986. Section 18912 of the Health and Safety Code is repealed.

~~18912. "Commission" means the California Building Standards Commission.~~

SEC. 987. Section 18914 of the Health and Safety Code is amended to read:

18914. "Executive director" means the ~~Executive~~ Director of ~~the California Building Standards Commission~~ *General Services*.

SEC. 988. Article 1 (commencing with Section 18920) of Chapter 2 of Part 2.5 of Division 13 of the Health and Safety Code is repealed.

SEC. 989. Article 2 (commencing with Section 18925) of Chapter 2 of Part 2.5 of Division 13 of the Health and Safety Code is repealed.

SEC. 990. Section 18926 of the Health and Safety Code is amended to read:

18926. (a) There is, in the ~~office of the executive director~~ *Department of General Services*, a coordinating council. The membership of the council shall consist of the ~~executive director~~ *Director of General Services*, who shall serve as chairperson, and representatives appointed by the State Director of Health Services, the Director of the Office of Statewide Health Planning and Development, the Director of Housing and Community Development, the Director of Industrial Relations, the State Fire Marshal, the Executive Director of the State Energy Resources Conservation and Development Commission, and the Director of General Services.

(b) Subject to the pleasure of the ~~commission~~ *Department of General Services*:

(1) The council or any member of the council shall, when called and directed in writing by the executive director, work with and assist an agency proposing building standards or adopting building standards, or both, in the development of proposals for building standards.

(2) When a state agency contemplates the adoption of any building standard, it shall, prior to commencing any action to prepare a draft of the proposal, advise the executive director, in writing, of that intent and request the executive director to call the

council, or any member of the council, as appropriate, for assistance.

(3) Whenever the ~~commission~~ *Department of General Services* returns for amendment, or rejects any proposed building standard, and one of the reasons for that action is that approval of the proposal would create a conflict with existing building standards of other adopting agencies, the ~~executive director~~ *Director of General Services* shall call the council or any member of the council, as appropriate, to assist in the elimination of the conflict.

(4) The council shall draft proposed building standards which the commission is authorized to adopt pursuant to Section 18933 for the consideration of the commission and approval, utilizing the criteria of Section 18930.

SEC. 991. Section 18927 of the Health and Safety Code is amended to read:

18927. The ~~commission~~ *Department of General Services* may appoint from the design professions, the building and construction industry, the affected general public, and interested governmental agencies, appropriate advisory panels to advise the commission and its staff with respect to building standards. The persons appointed to the panels shall be specifically knowledgeable and qualified in the type of work embraced by the building standards in question. These persons shall serve without compensation, but may receive actual necessary travel expenses.

SEC. 992. Section 18928 of the Health and Safety Code is amended to read:

18928. (a) Each state agency adopting or proposing adoption of a model code, national standard, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

(b) Each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent editions of the model codes, as amended or proposed to be amended by the adopting agency, within one year after the date of publication of the model codes, national standards, or specifications. The "date of publication of a model code, national standard, or specification" is either of the following:

(1) The date of publication printed in the model code, national standard, or specification. If only a month and year are shown by

the model code, national standard, or specification adopting agency or body, the date of publication shall be considered to be the last day of the month shown.

(2) The date determined by the ~~commission~~ *Department of General Services,* if no publication date is shown in the model code, national standard, or specification. The ~~commission~~ *department* shall notify all adopting agencies of its determination within 15 days.

(c) If the adopting agencies fail to comply with subdivision (b), the ~~commission~~ *department* shall convene a committee to recommend to the ~~commission~~ *department* the adoption, amendment, or repeal, on the agencies' behalf, of the most recent editions of the model codes, national standards, or specifications and necessary state standards.

SEC. 993. Section 18928.1 of the Health and Safety Code is amended to read:

18928.1. Building standards adopted or approved by the ~~commission~~ *Department of General Services* shall incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions therefrom. The ~~commission~~ *Department of General Services* may elect to adopt or approve standards which incorporate, in whole or in part, the text of these publications, with changes therein, or deletions therefrom, directly incorporated into the text of the California Building Standards Code, but no textual material contained in any of the model codes, as enumerated in Section 18916, may be included in the California Building Standards Code by means other than incorporation by reference, unless the ~~commission~~ *department* and the governing body of the organization that publishes the model codes first reach a written agreement concerning the terms and conditions of the publication, including, but not limited to, whether the publication will be by the ~~commission~~ *department* or the model code organization, or both. The model code governing body may not withhold any publication agreement on the basis of the substantive provisions contained in the California Building Standards Code.

SEC. 994. Section 18929 of the Health and Safety Code is amended to read:

18929. (a) Except as otherwise provided in subdivision (b), administrative regulations adopted by state agencies that apply

directly to the implementation or enforcement of building standards shall be forwarded to the ~~California Building Standards Commission~~ *Department of General Services* for approval. Each regulation shall be adopted in compliance with the procedures specified in Section 18930 and in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. These administrative regulations shall be published in the administrative part of the California Building Standards Code.

(b) This section shall not apply to any regulations adopted by the Department of Housing and Community Development that apply directly to the implementation or enforcement of building standards.

SEC. 995. Section 18929.1 of the Health and Safety Code is amended to read:

18929.1. (a) The ~~commission~~ *Department of General Services* shall receive proposed building standards from state agencies for consideration in an annual code adoption cycle. The ~~commission~~ *department* shall develop regulations setting forth the procedures for the annual adoption cycle. The regulations shall ensure all of the following:

(1) Adequate public participation in the development of building standards prior to submittal to the ~~commission~~ *department* for adoption and approval.

(2) Adequate notice, in written form, to the public of the compiled building standards and their justification.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the ~~commission~~ *department*.

(4) Adequate time for review of recommendations by advisory bodies prior to action by the ~~commission~~ *department*.

(5) The procedures shall meet the intent of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code) and Section 18930.

(b) Where this section is in conflict with other provisions of this part, the intent of this section shall prevail.

SEC. 996. The heading of Chapter 3 (commencing with Section 18930) of Part 2.5 of Division 13 of the Health and Safety Code is amended to read:

CHAPTER 3. POWERS OF THE ~~COMMISSION~~ *DEPARTMENT OF GENERAL SERVICES WITH RESPECT TO BUILDING STANDARDS*

SEC. 997. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the ~~California Building Standards Commission~~ *Department of General Services* prior to codification. Prior to submission to the ~~commission~~ *department*, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the ~~commission~~ *department* for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the ~~commission~~ *department*, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the ~~commission~~ *department*.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the

state agency shall prepare a statement informing the ~~commission~~ *department* and submit that statement with the proposed building standard.

(8) The format of the proposed building standards is consistent with that adopted by the ~~commission~~ *department*.

(9) The proposed building standard, if it promotes fire and panic safety, as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the ~~commission~~ *department* shall consider only the record of the proceedings of the adopting agency, except as provided in subdivision (b) of Section 11359 of the Government Code.

(c) Where the ~~commission~~ *department* is the adopting agency, it shall consider the record submitted to, and considered by, the state agency that proposes the building standards and the record of public comment that results from the ~~commission's~~ *Department of General Services'* adoption of proposed regulations.

(d) (1) The ~~commission~~ *department* shall give great weight to the determinations and analysis of the adopting agency or state agency that proposes the building standards on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency or state agency that proposes the building standards shall be considered conclusive by the ~~commission~~ *department* unless the ~~commission~~ *department* specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency or state agency that proposes the building standards.

(2) Whenever the ~~commission~~ *department* makes a finding, as described in this subdivision, it shall return the standard to the adopting agency or state agency that proposes the building standards for a reexamination of its original determination of the disputed fact.

(e) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (d). Whenever a building standard is principally intended to conserve energy or other natural resources, the ~~commission~~ *department* shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (d). Whenever a building

standard promotes fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(f) Whenever the ~~commission~~ *department* finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard, the ~~commission~~ *department* shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

SEC. 998. Section 18931 of the Health and Safety Code is amended to read:

18931. The ~~commission~~ *Department of General Services* shall perform the following:

(a) In accordance with Section 18930 and within 120 days from the date of receipt of adopted standards, review the standards of adopting agencies and approve, return for amendment with recommended changes, or reject building standards submitted to the ~~commission~~ *department* for its approval. When building standards are returned for amendment or rejected, the ~~commission~~ *department* shall inform the adopting agency or state agency that proposes the building standards of the specific reasons for the recommended changes or rejection, citing the criteria required under Section 18930. When standards are not acted upon by the ~~commission~~ *department* within 120 days, the standards shall be approved, including codification and publication in the California Building Standards Code, without further review and without return or rejection by the ~~commission~~ *department*.

(b) Codify, including publish, all building standards of adopting agencies or state agencies that propose the building standards and statutes defining building standards into one California Building Standards Code.

(c) Resolve conflict, duplication, and overlap in building standards in the code.

(d) Ensure consistency in nomenclature and format in the code.

(e) In accordance with Section 18945, hear appeals resulting from the administration of state building standards.

(f) Adopt any procedural regulations which it deems necessary to administer this part.

(g) The ~~commission~~ *department* shall direct the executive director to prepare a comprehensive listing of all state amendments

developed for publication in the California State Building Code (Part 2 (commencing with Section 101), Title 24, California Code of Regulations), referencing the 1994 Edition of the Uniform Building Code, as published by the International Conference of Building Officials, for the period beginning January 1, 1995, through December 31, 1995. The listing shall identify the following:

(1) Each new state amendment to the 1994 Edition of the Uniform Building Code, as published by the International Conference of Building Officials, and the state agency that adopted the new amendment.

(2) (A) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (2) of subdivision (a) of Section 18930.

(B) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (3) of Section 18930.

(C) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (5) of Section 18930.

(D) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (7), or to subparagraph (A) or (B) of paragraph (7) of subdivision (a) of Section 18930.

(3) Existing state amendments, published in earlier editions of the California State Building Code (Part 2 (commencing with Section 101), Title 24, California Code of Regulations), which are published in the California State Building Code referencing the 1994 Edition of the Uniform Building Code, as published by the International Conference of Building Officials.

(4) The ~~California Building Standards Commission's~~ *Department of General Services'* determination as to whether the amendment referred to in paragraph (3) continues to be justified under the criteria set forth in Section 18930. The ~~commission~~ *department* shall use information gathered in the study required by Chapter 1289 of the Statutes of 1990 in making its determination, and may also request information from the state agency that adopted or proposed the amendments.

The ~~commission~~ *department* shall perform this task to the extent feasible, and within the existing budget constraints during the

triennial adoption process of the California Building Standards Code, referencing the 1994 Edition of the Uniform Building Code as published by the International Conference of Building Officials. The ~~commission~~ *department* shall be authorized to reduce the scope of the review should fiscal restraints warrant this action. In the event a reduction in the scope of the review is made, the ~~commission~~ *department* shall give priority to those sections of the California State Building Code (Part 2 (commencing with Section 101), Title 24, California Code of Regulations) that directly affect residential construction.

(5) Upon completion of the comprehensive listing required by this subdivision, the ~~commission~~ *department* shall inform the public and all state agencies with the authority to develop building standards that the listing has been completed, and that copies will be made available upon request.

SEC. 999. Section 18931.5 of the Health and Safety Code is amended to read:

18931.5. (a) Each state agency that adopts or proposes building standards shall pay annually to the ~~California Building Standards Commission~~ *Department of General Services* a proportionate share of the cost of the review and publication of building standards which are published or proposed to be published in the California Building Standards Code.

(b) The ~~commission~~ *department* shall determine the proportional cost to be paid for review of existing building standards and the amount to be paid for review of building standards, adopted or proposed by a state agency, that have been submitted for publication in the California Building Standards Code.

SEC. 1000. Section 18932 of the Health and Safety Code is amended to read:

18932. (a) The code shall indicate the agency having responsibility vested by law for the administration of each building standard and the occupancy or occupancies affected by each building standard.

(b) The code shall include an index and reference guide.

(c) The ~~commission~~ *Department of General Services* shall establish the format for the code to conform it as nearly as it deems practicable with the model codes.

SEC. 1001. Section 18933 of the Health and Safety Code is amended to read:

18933. (a) The ~~commission~~ *Department of General Services* may give affected state agencies reasonable time, as specified by the ~~commission~~ *department*, to adopt amendments to building standards submitted for approval. If the agencies do not do so within the reasonable time as specified, the ~~commission~~ *department* shall convene a committee composed of a representative from each of the agencies affected and any other qualified persons who are selected by the ~~commission~~ *department*. This committee shall prepare a recommendation for ~~commission~~ *department* action upon the building standards. Upon the recommendation, or if the committee does not prepare a recommendation and deliver it to the ~~commission~~ *department* within 30 days after being appointed, the ~~commission~~ *department* may rewrite, edit, amend, or adopt, and approve the building standards consistent with the intent of this part and in accordance with the Administrative Procedure Act and the criteria for approval provided in Section 18930. It shall not, however, be required that hearings or other administrative procedure be duplicated on unchanged portions of building standards previously adopted and approved by the ~~commission~~ *department*.

(b) (1) Pursuant to Section 18943, the ~~commission~~ *department*, after publication of building standards pursuant to Section 18941 in the triennial edition of the code, shall recommend to affected state agencies the repeal of building standards of those state agencies which were adopted, or are, in conflict with other published standards in the code. If the state agencies do not repeal the building standards within a reasonable time as specified by the ~~commission~~ *department*, the ~~commission~~ *department* shall convene a committee composed of a representative of each of the agencies affected and other qualified persons selected by the ~~commission~~ *department* to prepare a recommendation for ~~commission~~ *department* action on the building standards.

(2) Upon the recommendation, or if the committee does not prepare a recommendation and deliver it to the ~~commission~~ *department* within 30 days after being appointed, the ~~commission~~ *department* may repeal the building standards, in accordance with the Administrative Procedure Act. This subdivision shall not supersede Section 18943, but, instead, provides the procedure for effecting that section.

SEC. 1002. Section 18934 of the Health and Safety Code is amended to read:

18934. State agencies proposing to adopt building standards shall adopt, and the ~~commission~~ *Department of General Services* shall approve, regulations establishing procedures to ensure public participation in the development of building standards and regulations.

SEC. 1003. Section 18934.5 of the Health and Safety Code is amended to read:

18934.5. Where no state agency has the authority to adopt building standards applicable to state buildings, the ~~commission~~ *Department of General Services* shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings, including buildings constructed by the Trustees of the California State University and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California. Building standards for state buildings shall comply with the criteria in subdivision (a) of Section 18930.

SEC. 1004. Section 18934.7 of the Health and Safety Code is amended to read:

18934.7. On or before January 1, 1993, the ~~commission~~ *Department of General Services* shall adopt, approve, codify, and publish by reference in the California Building Standards Code the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials to provide minimum standards for buildings specified in that appendix, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910).

SEC. 1005. Section 18934.8 of the Health and Safety Code is amended to read:

18934.8. (a) Pursuant to subdivision (b), the ~~commission~~ *Department of General Services* may adopt amendments to the California Building Standards Code provided that they are substantially the same as model code amendments which were adopted on an emergency basis by the code publishers, if the sections being amended are not under the authority of a state agency.

(b) The ~~commission~~ *department* may consider adoption of emergency amendments made to the model codes in an expedited rulemaking process outside the annual code adoption cycle set forth in Section 18929.1. If a model code organization adopts emergency amendments, the ~~commission~~ *department* may adopt those amendments 120 days after the organization's adoption of those amendments. This rulemaking process shall be completed within 180 days from the date the amendments were adopted by the model code organization. The ~~commission~~ *department* shall ensure that the rulemaking process includes all of the following:

(1) Adequate public participation in the development of building standards prior to submittal to the ~~commission~~ *department* for adoption and approval.

(2) Adequate written notice to the public of the compiled building standards and the written justification therefor.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the ~~commission~~ *department*.

(4) Adequate time for review of recommendations by advisory bodies prior to action by the ~~commission~~ *department*.

(c) Amendments to the California Building Standards Code adopted pursuant to this section shall take effect 60 days from the date on which they are adopted by the ~~commission~~ *department*.

(d) Nothing in this section shall be construed to permit amendments to the California Building Standards Code that decrease the level of disabled access provided.

SEC. 1006. Section 18935 of the Health and Safety Code is amended to read:

18935. (a) Notice of proposed building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of the building standards and submission to the ~~commission~~ *Department of General Services* for approval. The notice of proposed building standards and the initial statement of reasons for the proposed building standards shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The adopting agency or state agency that proposes the building standards shall submit the notice and initial statement of reasons for proposed building standards to the ~~California Building Standards Commission~~

Department of General Services, which shall review them for compliance with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. If the ~~commission~~ *Department of General Services* determines that the adopting agency or state agency that proposes the building standards has complied with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the ~~commission~~ *Department of General Services* shall approve the notice and initial statement of reasons for proposed building standards, and submit them to the Office of Administrative Law for the sole purpose of inclusion in the California Regulatory Notice Register. The Office of Administrative Law shall publish only those notices of proposed building standards which have been approved by, and submitted to, the office by the ~~California Building Standards Commission~~ *Department of General Services*.

(b) In order to ensure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the ~~commission~~ *Department of General Services* prior to public notices of the hearing being given by the adopting agencies.

(c) If, after building standards are submitted to the ~~commission~~ *Department of General Services* for approval, the ~~commission~~ *Department of General Services* requires changes therein as a condition for approval, and the changes are made, no additional hearing by the affected state agency shall be required in connection with making the changes when the ~~commission~~ *Department of General Services* determines the changes are nonsubstantial, solely grammatical in nature, or are sufficiently related to the text submitted to the ~~commission~~ *Department of General Services* for approval that the public was adequately placed on notice that the change could result from the originally proposed building standards.

SEC. 1007. Section 18938 of the Health and Safety Code is amended to read:

18938. (a) Building standards shall be filed with the Secretary of State and codified only after they have been approved by the ~~commission~~ *Department of General Services* and shall not be published in any other title of the California Code of Regulations.

Emergency building standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the ~~commission~~ *department* as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the ~~commission~~ *department*.

(b) The building standards contained in the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc., the Uniform Building Code of the International Conference of Building Officials, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the National Electrical Code of the National Fire Protection Association, and the Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as referenced in the California Building Standards Code, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Building Standards Code by the ~~California Building Standards Commission~~ *Department of General Services* or at a later date after publication established by the ~~commission~~ *department*.

(c) Except as otherwise provided in this subdivision, an adoption, amendment, or repeal of a building standard shall become effective 180 days after its publication in the triennial edition of the California Building Standards Code or one of its supplements, or at any later date as approved by the ~~California Building Standards Commission~~ *Department of General Services*, with the exceptions of standards adopted pursuant to Section 25402 of the Public Resources Code and those regulations that implement or enforce building standards. Regulations that implement or enforce building standards shall become effective 30 days after filing by the ~~commission~~ *department* with the Secretary of State. This subdivision shall not apply to emergency building standards. An amendment or a repeal of a building standard in the California Building Standards Code that, as determined by the ~~commission~~ *department*, would result in a less restrictive regulation, shall

become effective 30 days after filing of the amendment or repeal by the commission with the Secretary of State.

(d) Emergency standards defined in subdivision (a) of Section 18913 shall become effective when approved by the commission, and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11346.1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties. Notice of repeal, pursuant to Section 11346.1 of the Government Code, of emergency standards defined in subdivision (a) of Section 18913 within the period specified by that section, shall also be given to the parties by the affected agencies promptly after the termination of the statutory period pursuant to Section 11346.1 of the Government Code.

(e) This section shall not be applicable to the time limits set forth in Sections 17922 and 17958 for approval of uniform codes and for changes by local agencies in the California Building Standards Code.

SEC. 1008. Section 18944.41 of the Health and Safety Code is amended to read:

18944.41. Sections 18944.30, 18944.31, 18944.33, 18944.35, and 18944.40 shall become inoperative when building standards become effective after approval by the ~~California Building Standards Commission~~ *Department of General Services* pursuant to Chapter 4 (commencing with Section 18935) that permit the construction of structures that use baled straw as a loadbearing or nonloadbearing material and that are safe to the public.

SEC. 1009. Section 18947 of the Health and Safety Code is amended to read:

18947. Where the appeal issue results from the enforcement of a standard for occupational safety and health by an inspector of the Division of Occupational Safety and Health of the Department of Industrial Relations, the employer shall appeal directly to the ~~Occupational Safety and Health~~ *Employment and Benefits* Appeals Board, and the appeal shall be conducted pursuant to the provisions of Chapter 7 (commencing with Section 6600) of Part 1 of Division 5 of the Labor Code. Such an appeal, if sent to the commission in error, shall be forwarded immediately to the ~~Occupational Safety and Health~~ *Employment and Benefits* Appeals Board. The date of

receipt of any such appeal by the commission shall be considered the date of filing for purposes of meeting the filing time requirements of Section 6600 of the Labor Code.

SEC. 1010. Section 18949.4 of the Health and Safety Code is amended to read:

18949.4. The State Energy Resources Conservation and Development Commission shall submit building standards to the commission for review and approval pursuant to Section 18930 in accordance with the time schedule established by the ~~State Building Standards Commission~~ *Department of General Services*.

SEC. 1011. Section 18958 of the Health and Safety Code is amended to read:

18958. Except as provided in Section 18930, the following state agencies, in addition to the State Historical Building Safety Board, shall have the authority to adopt rules and regulations pursuant to the State Historical Building Code governing the rehabilitation, preservation, restoration, related reconstruction, safety, or relocation of qualified historical buildings and structures within their jurisdiction:

(a) The Division of the State Architect.

(b) The State Fire Marshal.

(c) The ~~State Building Standards Commission~~ *Department of General Services*, but only with respect to approval of building standards.

(d) The Department of Housing and Community Development.

(e) The Department of Transportation.

(f) Other state agencies that may be affected by this part.

SEC. 1012. Section 18960 of the Health and Safety Code is amended to read:

18960. (a) A State Historical Building Safety Board is hereby established as a unit within the Division of the State Architect. The board shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building and preservation oriented organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies for purposes of this part. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as a review body to state and local agencies with respect to interpretations of this part as well as on matters of administration and enforcement of it. The board's decisions shall be reported in printed form.

(1) Notwithstanding subdivision (b) of Section 18945, if any local agency administering and enforcing this part or any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of this agency representing a building standard wishes to appeal the issue for resolution to the State Historical Building Safety Board, these parties may appeal to the board. The board may accept the appeal only if it determines that issues involved in the appeal have statewide significance.

(2) The State Historical Building Safety Board shall, upon making a decision on an appeal pursuant to paragraph (1), send a copy to the ~~State Building Standards Commission~~ *Department of General Services*.

(3) Requests for interpretation by local agencies of the provisions of this part may be accepted for review by the State Historical Building Safety Board. A copy of an interpretation decision shall be sent to the ~~State Building Standards Commission~~ *Department of General Services* in the same manner as paragraph (2).

(4) The State Historical Building Safety Board may charge a reasonable fee, not to exceed the cost of the service, for requests for copies of their decisions and for requests for reviews by the board pursuant to paragraph (1) or (3). All funds collected pursuant to this paragraph shall be deposited in the State Historical Building Code Fund, which is hereby established, for use by the State Historical Building Safety Board. The State Historical Building Code Fund and the fees collected therefor, and the budget of the State Historical Building Safety Board, shall be subject to annual appropriation in the Budget Act.

(5) Local agencies may also charge reasonable fees not to exceed the cost for making an appeal pursuant to paragraph (1) to persons adversely affected as described in that appeal.

(6) All other appeals involving building standards under this part shall be made as set forth in subdivision (a) of Section 18945.

(d) The board shall be composed of representatives of state agencies and public and professional building design, construction, and preservation organizations experienced in dealing with historic

buildings. Unless otherwise indicated, each named organization shall appoint its own representatives. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

(1) The Division of the State Architect.

(2) The State Fire Marshal.

(3) The State Historical Resources Commission.

(4) The California Occupational Safety and Health Standards Board.

(5) California Council, American Institute of Architects.

(6) Structural Engineers Association of California.

(7) A mechanical engineer, Consulting Engineers and Land Surveyors of California.

(8) An electrical engineer, Consulting Engineers and Land Surveyors of California.

(9) California Council of Landscape Architects.

(10) The Department of Housing and Community Development.

(11) The Department of Parks and Recreation.

(12) The California State Association of Counties.

(13) League of California Cities.

(14) The Office of Statewide Health Planning and Development.

(15) The Department of Rehabilitation.

(16) The California Chapter of the American Planning Association.

(17) The Department of Transportation.

(18) The California Preservation Foundation.

(19) The ~~Seismic Safety Commission~~ *Department of General Services*.

(20) The California Building Officials.

(21) The Building Owners and Managers Association of California.

The 21 members listed above shall select a building contractor as a member of the board, who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board.

Each of the appointing authorities shall appoint, in the same manner as for members, an alternate in addition to a member. The alternate member shall serve in place of the member at the meetings of the board that the member is unable to attend. The alternate

shall have all of the authority that the member would have when the alternate is attending in the place of the member. The board may appoint, from time to time, as it deems necessary, consultants who shall serve without pay but shall receive actual and necessary expenses as approved by the board.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

SEC. 1013. Section 19164 of the Health and Safety Code is amended to read:

19164. Any city, city and county, or county may assign allowable working stresses to existing materials based on substantiating research data or engineering judgment. Such allowable working stresses shall be limited by a safety factor which is reasonably commensurate with the importance of the element in which the material is used. In the event the local jurisdiction does not have the ability to assign such allowable working stresses, it may employ as a consultant the office of the State Architect. Allowable working stresses prepared by the office of the State Architect for any city, city and county, or county shall be subject to approval by the ~~Seismic Safety Commission~~ *Department of General Services*.

SEC. 1014. Section 19881 of the Health and Safety Code is amended to read:

19881. (a) No person shall sell, or offer for sale, any new or used unvented heater that is designed to be used inside any dwelling house or unit, with the exception of an electric heater, or decorative gas logs for use in a vented fireplace.

(b) Notwithstanding subdivision (a), natural-gas-fueled unvented decorative gas logs and fireplaces may be sold if the Department of Housing and Community Development and the ~~State Department of Health Services~~ *State Department of Health Care Services* approve of their use, and all of the following are satisfied:

(1) The Department of Housing and Community Development and the ~~State Department of Health Services~~ *State Department of Health Care Services* consider and develop recommended standards for their use. The cost of developing these standards may not exceed one hundred forty-five thousand dollars ($145,000).

(2) Natural-gas-fueled unvented decorative gas logs and fireplaces meet the standards developed in accordance with paragraph (1) by the Department of Housing and Community Development and the ~~State Department of Health Services~~ *State Department of Health Care Services*.

(3) The ~~California Building Standards Commission~~ *Department of General Services* adopts the standards developed in accordance with paragraph (1) and pursuant to Section 18930.

(4) Natural-gas-fueled unvented decorative gas logs and fireplaces are listed by an agency approved by the Department of Housing and Community Development.

(c) Installation of natural-gas-fueled unvented decorative gas logs and fireplaces sold under standards developed pursuant to subdivision (b) shall be in accordance with the California Building Standards Code.

SEC. 1015. Section 19958.6 of the Health and Safety Code is amended to read:

19958.6. (a) A person who violates Section 19952, 19955, 19955.5, 19956, 19956.5, or 19959 or any of the regulations implementing those sections that have been promulgated by the State Architect pursuant to Section 4450 of the Government Code and approved by the ~~California Building Standards Commission~~ *Department of General Services* shall be subject to a civil penalty of two thousand five hundred dollars ($2,500) for each violation.

(b) A person who remains in violation of the statutes and regulations specified in subdivision (a) for more than 90 days after receipt of written notice from a governmental agency identifying the violation shall be subject to an additional civil penalty of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each violation for each additional day that the violation remains. In assessing the amount of the civil penalty under this subdivision, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(1) The nature and seriousness of the violations.

(2) The number of violations.

(3) The persistence of the violations.

(4) The willfulness of the defendant's conduct.

(5) The defendant's assets, liabilities, and net worth.

(6) Any economic benefit to the defendant resulting from the violation.

A court may suspend a portion of any penalty imposed pursuant to this subdivision to the extent that the person, despite diligent efforts, cannot complete all steps necessary to correct a violation within the 90-day period. Any suspension of daily penalties shall be conditioned on adherence to a court-ordered schedule for correcting the violation.

(c) When imposing penalties under either subdivision (a) or (b), the court shall impose a separate civil penalty for each violation of the statutes and implementing regulations mentioned in subdivision (a). Multiple identical violations at one facility may be deemed to constitute one violation if the court finds that the multiplicity of violations did not significantly increase the degree to which access was compromised.

(d) Every civil action brought under this section shall be brought in the name of the people of the state by the district attorney, the city attorney, the county counsel if the district attorney does not bring an action, the Department of Rehabilitation acting through the Attorney General, or the Attorney General. An action brought in the name of the people of the state shall not preclude an action being brought by an injured person under other applicable laws.

(e) (1) If the action is brought by the Department of Rehabilitation acting through the Attorney General, or by the Attorney General, the civil penalties shall be paid to the Treasurer. Upon prevailing, the Attorney General shall be entitled to recover all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

(2) If the action is brought by the district attorney, or the county counsel, the civil penalties shall be paid to the treasurer of the county in which the judgment was entered.

(3) If the action is brought by the city attorney, the civil penalties shall be paid to the treasurer of the city bringing the action. Upon prevailing, the city attorney shall be entitled to recover all costs of investigating and prosecuting the action, including, but not limited to, expert fees, reasonable attorney's fees, and costs.

SEC. 1016. Section 25150 of the Health and Safety Code is amended to read:

25150. (a) The department shall adopt, and revise when appropriate, standards and regulations for the management of

hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment.

(b) The department and the local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180 shall apply the standards and regulations adopted pursuant to subdivision (a) to the management of hazardous waste.

(c) Except as provided in subdivision (d), the department may limit the application of the standards and regulations adopted or revised pursuant to subdivision (a) at facilities operating pursuant to a hazardous waste facilities permit or other grant of authorization issued by the department in any manner that the department determines to be appropriate, including, but not limited to, requiring these facilities to apply for, and receive, a permit modification prior to the application of the standards and regulations.

(d) The department shall not adopt or revise standards and regulations which result in the imposition of any requirement for the management of a RCRA waste that is less stringent than a corresponding requirement adopted by the Environmental Protection Agency pursuant to the federal act.

(e) The department shall adopt, and revise when appropriate, regulations for the recycling of hazardous waste to protect against hazards to the public health, domestic livestock, wildlife, or to the environment, and to encourage the best use of natural resources.

(f) Before the adoption of regulations, the department shall notify all agencies of interested local governments, including, but not limited to, certified unified program agencies, local governing bodies, local planning agencies, local health authorities, local building inspection departments, the Department of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Fish and Game, the Department of Industrial Relations, the Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, the ~~State Building Standards Commission~~ *Department of General Services*, the Office of Environmental Health Hazard Assessment, and the California Integrated Waste Management Board.

SEC. 1017. Section 25244.15.1 of the Health and Safety Code is amended to read:

25244.15.1. (a) The California Source Reduction Advisory Committee is hereby created and consists of the following members:

(1) The Executive Director of the State Air Resources Board, as an ex officio member.

(2) The Executive Director of the State Water Resources Control Board, as an ex officio member.

(3) The Director of Toxic Substances Control, as an ex officio member.

(4) The ~~Executive Director of the Integrated Waste Management Board~~ *Secretary for Environmental Protection*, as an ex officio member.

(5) The Chairperson of the California Environmental Policy Council established pursuant to Section 71017 of the Public Resources Code, as an ex officio member.

(6) Ten public members with experience in source reduction as appointed by the department. These public members shall include all of the following:

(A) Two representatives of local governments from different regions of the state.

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.

(D) One representative of small business.

(E) One representative of organized labor.

(F) Two representatives of statewide environmental advocacy organizations.

(G) One representative of a statewide public health advocacy organization.

(7) The department may appoint up to two additional public members with experience in source reduction and detailed knowledge of one of the priority categories of generators selected in accordance with Section 25244.17.1.

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties, as authorized by the department.

(d) The advisory committee shall meet at least semiannually to provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

(1) Reviewing and providing consultation and guidance in the preparation of the work plan required by Section 25244.22.

(2) Evaluating the performance and progress of the department's source reduction program.

(3) Making recommendations to the department concerning program activities and funding priorities, and legislative changes, if needed.

(f) The advisory committee established by this section shall be in existence until April 15, 2002, by which date the department shall, in consultation with the advisory committee, evaluate the role and activities of the advisory committee and determine if the committee is beneficial to the implementation of this article. On and after April 15, 2002, the advisory committee shall continue to exist and operate to the extent that the department, in consultation with the advisory committee, determines the advisory committee continues to be beneficial to the operation of the department's source reduction programs.

SEC. 1018. Section 25250.1 of the Health and Safety Code is amended to read:

25250.1. (a) As used in this article, the following terms have the following meaning:

(1) (A) "Used oil" means all of the following:

(i) Oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities.

(ii) Material that is subject to regulation as used oil under Part 279 (commencing with Section 279.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(B) Examples of used oil are spent lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; industrial oils, including compressor, turbine, and bearing

oil; hydraulic oil; metalworking oil; refrigeration oil; and railroad drainings.

(C) "Used oil" does not include any of the following:

(i) Oil that has a flashpoint below 100 degrees Fahrenheit or that has been mixed with hazardous waste, other than minimal amounts of vehicle fuel.

(ii) (I) Wastewater, the discharge of which is subject to regulation under either Section 307(b) (33 U.S.C. Sec. 1317(b)) or Section 402 (33 U.S.C. Sec. 1342) of the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil.

(II) For purposes of this clause, "de minimis quantities of used oil" are small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations, or small amounts of oil lost to the wastewater treatment system during washing or draining operations.

(III) This exception does not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases or to used oil recovered from wastewaters.

(iii) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(iv) Oil that contains polychlorinated biphenyls (PCBs) at a concentration of 5 ppm or greater.

(v) (I) Oil containing more than 1000 ppm total halogens, which shall be presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D (commencing with Section 261.30) of Part 261 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(II) A person may rebut the presumption specified in subclause (I) by demonstrating that the used oil does not contain hazardous waste, including, but not limited to, in the manner specified in subclause (III).

(III) The presumption specified in subclause (I) is rebutted if it is demonstrated that the used oil that is the source of total halogens at a concentration of more than 1000 ppm is solely either household waste, as defined in Section 261.4(b)(1) of Title 40 of the Code of Federal Regulations, or is collected from conditionally exempt small quantity generators, as defined in Section 261.5 of Title 40

of the Code of Federal Regulations. Nothing in this subclause authorizes any person to violate the prohibition specified in Section 25250.7.

(2) "Board" means the California ~~Integrated Waste Management Board~~ *Environmental Protection Agency*.

(3) (A) "Recycled oil" means any oil that meets all of the following requirements specified in clauses (i) to (iii), inclusive:

(i) Is produced either solely from used oil, or is produced solely from used oil that has been mixed with one or more contaminated petroleum products or oily wastes, other than wastes listed as hazardous under the federal act, provided that if the resultant mixture is subject to regulation as a hazardous waste under Section 279.10(b)(2) of Title 40 of the Code of Federal Regulations, the mixture is managed as a hazardous waste in accordance with all applicable hazardous waste regulations, and the recycled oil produced from the mixture is not subject to regulation as a hazardous waste under Section 279.10(b)(2) of Title 40 of the Code of Federal Regulations. If the oily wastes with which the used oil is mixed were recovered from a unit treating hazardous wastes that are not oily wastes, these recovered oily wastes are not excluded from being considered as oily wastes for purposes of this section or Section 25250.7.

(ii) The recycled oil meets one of the following requirements:

(I) The recycled oil is produced by a generator lawfully recycling its oil.

(II) The recycled oil is produced at a used oil recycling facility that is authorized to operate pursuant to Section 25200 or 25200.5 solely by means of one or more processes specifically authorized by the department. The department may not authorize a used oil recycling facility to use a process in which used oil is mixed with one or more contaminated petroleum products or oily wastes unless the department determines that the process to be authorized for mixing used oil with those products or wastes will not substantially contribute to the achievement of compliance with the specifications of subparagraph (B).

(III) The recycled oil is produced in another state, and the used oil recycling facility where the recycled oil is produced, and the process by which the recycled oil is produced, are authorized by the agency authorized to implement the federal act in that state.

(iii) Has been prepared for reuse and meets all of the following standards:

(I) The oil meets the standards of purity set forth in subparagraph (B).

(II) If the oil was produced by a generator lawfully recycling its oil or the oil is lawfully produced in another state, the oil is not hazardous pursuant to the criteria adopted by the department pursuant to Section 25141 for any characteristic or constituent other than those listed in subparagraph (B).

(III) The oil is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(IV) The oil is not subject to regulation as a hazardous waste under the federal act.

(V) If the oil was produced lawfully at a used oil recycling facility in this state, the oil is not hazardous pursuant to any characteristic or constituent for which the department has made the finding required by subparagraph (B) of paragraph (2) of subdivision (a) of Section 25250.19, except for one of the characteristics or constituents identified in the standards of purity set forth in subparagraph (B).

(B) The following standards of purity are in effect for recycled oil, in liquid form, unless the department, by regulation, establishes more stringent standards:

(i) Flashpoint: minimum standards set by the American Society for Testing and Materials for the recycled products. However, recycled oil to be burned for energy recovery shall have a minimum flashpoint of 100 degrees Fahrenheit.

(ii) Total lead: 50 mg/kg or less.

(iii) Total arsenic: 5 mg/kg or less.

(iv) Total chromium: 10 mg/kg or less.

(v) Total cadmium: 2 mg/kg or less.

(vi) Total halogens: 3000 mg/kg or less. However, recycled oil shall be demonstrated by testing to contain not more than 1000 mg/kg total halogens listed in Appendix VIII of Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(vii) Total polychlorinated biphenyls (PCBs): less than 2 mg/kg.

(C) Compliance with the specifications of subparagraph (B) or with the requirements of clauses (iv) and (v) of subparagraph (B)

of paragraph (1) shall not be met by blending or diluting used oil with crude or virgin oil, or with a contaminated petroleum product or oily waste, except as provided in subclause (II) of clause (ii) of subparagraph (A), and shall be determined in accordance with the procedures for identification and listing of hazardous waste adopted in regulations by the department. Persons authorized by the department to recycle oil shall maintain records of volumes and characteristics of incoming used oil and outgoing recycled oil and documentation concerning the recycling technology utilized to demonstrate to the satisfaction of the department or other enforcement agencies that the recycling has been achieved in compliance with this subdivision.

(D) This paragraph does not apply to oil that is to be disposed of or used in a manner constituting disposal.

(4) "Used oil recycling facility" means a facility that reprocesses or re-refines used oil.

(5) "Used oil storage facility" means a storage facility, as defined in subdivision (b) of Section 25123.3, that stores used oil.

(6) "Used oil transfer facility" means a transfer facility, as defined in subdivision (a) of Section 25123.3, that meets the qualifications to be a storage facility, for purposes of Section 25123.3.

(7) (A) For purposes of this section and Section 25250.7 only, "contaminated petroleum product" means a product that meets all of the following conditions:

(i) It is a hydrocarbon product whose original intended purpose was to be used as a fuel, lubricant, or solvent.

(ii) It has not been used for its original intended purpose.

(iii) It is not listed in Subpart D (commencing with Section 251.30) of Part 261 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(iv) It has not been mixed with a hazardous waste other than another contaminated petroleum product.

(B) Nothing in this section or Section 25250.7 shall be construed to affect the exemptions in Section 25250.3, or to subject contaminated petroleum products that are not hazardous waste to any requirements of this chapter.

(b) Unless otherwise specified, used oil that meets either of the following conditions is not subject to regulation by the department:

(1) The used oil has not been treated by the generator of the used oil, the generator claims the used oil is exempt from regulation by the department, and the used oil meets all of the following conditions:

(A) The used oil meets the standards set forth in subparagraph (B) of paragraph (3) of subdivision (a).

(B) The used oil is not hazardous pursuant to the criteria adopted by the department pursuant to Section 25141 for any characteristic or constituent other than those listed in subparagraph (B) of paragraph (3) of subdivision (a).

(C) The used oil is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(D) The used oil is not subject to regulation as either hazardous waste or used oil under the federal act.

(E) The generator of the used oil has complied with the notification requirements of subdivision (c) and the testing and recordkeeping requirements of Section 25250.19.

(F) The used oil is not disposed of or used in a manner constituting disposal.

(2) The used oil meets all the requirements for recycled oil specified in paragraph (3) of subdivision (a), the requirements of subdivision (c), and the requirements of Section 25250.19.

(c) *(1)* Used oil recycling facilities and generators lawfully recycling their own used oil that are the first to claim that recycled oil meets the requirements specified in paragraph (2) of subdivision (b) shall maintain an operating log and copies of certification forms, as specified in Section 25250.19. Any person who generates used oil, and who claims that the used oil is exempt from regulation pursuant to paragraph (1) of subdivision (b), shall notify the department, in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. ~~In~~

(2) In any action to enforce this article, the burden is on the generator or recycling facility, whichever first claimed that the used oil or recycled oil meets the standards and criteria, and on the transporter or the user of the used oil or recycled oil, whichever has possession, to prove that the oil meets those standards and criteria.

(d) Used oil shall be managed in accordance with the requirements of this chapter and any additional applicable requirements of Part 279 (commencing with Section 279.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

SEC. 1019. Section 44021 of the Health and Safety Code is repealed.

~~44021. (a) (1) The Inspection and Maintenance Review Committee is hereby created to analyze the effect of the improved inspection and maintenance program established by this chapter on motor vehicle emissions and air quality. The functions of the review committee shall be advisory in nature and primarily pertain to the gathering, analysis, and evaluation of information.~~

~~(2) The members of the review committee shall receive no compensation, but shall be reimbursed by the department for their reasonable expenses in performing committee duties. The state board and the department shall provide the review committee with any necessary technical and clerical support in its evaluation and study.~~

~~(3) (A) The review committee shall consist of 13 members, nine to be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. All members shall be appointed to four-year terms, and the Governor shall appoint from among his or her appointees the chairperson of the review committee.~~

~~(B) The appointees of the Governor shall include an air pollution control officer from an enhanced program nonattainment area, three public members, an expert in air quality, an economist, a social scientist, a representative of the inspection and maintenance industry, and a representative of stationary source emissions organizations.~~

~~(C) The appointees of the Senate Committee on Rules shall include an environmental member with expertise in air quality, and a representative from the inspection and maintenance industry.~~

~~(D) The appointees of the Speaker of the Assembly shall include an environmental member with expertise in air quality, and a representative of a local law enforcement agency charged with prosecuting violations of this chapter in an enhanced program nonattainment area.~~

~~(4) In preparing its evaluations of program effectiveness as provided in paragraph (1), the review committee shall consult with the Department of the California Highway Patrol, the Department of Motor Vehicles, and any other appropriate agencies, as well as the department and the state board, shall schedule and conduct periodic meetings in the performance of its duties, and shall meet and consult with local, state, and federal officials involved in the evaluation of motor vehicle inspection and maintenance programs. At the request of the committee, the department or the state board may, on behalf of the committee, contract with independent entities to assist in the committee's evaluations.~~

~~(b) The review committee shall submit periodic written reports to the Legislature and the Governor on the performance of the program and make recommendations on program improvements at least every 12 months. The periodic reports shall quantify the reduction in emissions and improvement in air quality attributed to the program. On or before July 1, 2010, the review committee shall, in consultation with the department and the state board, include a discussion of the effectiveness of the visible smoke test component of the inspection and maintenance program, including the impact of the visible smoke test on the smog check industry and vehicle owners who fail the test, and an estimate of the reduction in particulate emissions, in the periodic reports required by this subdivision. Any reports, other than those required by this section, that the review committee is required to provide pursuant to this chapter shall also be transmitted to the Secretary for Environmental Protection and the Secretary for State and Consumer Services.~~

~~(c) The review committee shall work closely with all interested parties in preparing the information required by subdivisions (a) and (b) and shall consider the reports provided pursuant to subdivision (e). The review committee shall hold at least one public hearing on its findings and recommendations prior to submitting its reports. The reports shall include statutory language to implement its recommendations, and shall recommend the timeframe for making any changes to the program. The review committee shall seek comments from the department, the Department of Motor Vehicles, the Department of the California Highway Patrol, and the state board prior to submitting its reports, and those comments shall be published as an appendix to the report.~~

~~(d) The review committee shall participate in the demonstration program authorized by Section 44081.6, as provided by that section.~~

~~(e) The state board, in cooperation with the department, shall periodically submit reports to the review committee. The reports shall include an assessment of the impact on emissions of continuing the exemption from inspection of motor vehicles newer than five years old; a comparison of the actual mass emissions reductions being achieved by the enhanced program to those required by the State Implementation Plan; and recommendations to improve the effectiveness and cost-effectiveness of the program, including specific recommendations addressing any discrepancy between emissions achieved and those in the State Implementation Plan. The first report shall be submitted not later than January 1, 2000, and reports shall be submitted triennially thereafter. In preparing the reports, the state board shall use data collected during inspections and repairs, and data collected using roadside measurements, and may conduct additional testing, as determined to be necessary, to accurately quantify the mass emissions reduced.~~

SEC. 1020. Section 50668.5 of the Health and Safety Code is amended to read:

50668.5. For the purpose of providing financial assistance pursuant to this chapter utilizing bond proceeds transferred to the Housing Rehabilitation Loan Fund pursuant to paragraph (2) of subdivision (a) of Section 53130, paragraph (2) of subdivision (b) of Section 53130, and Sections 8878.20 and 8878.21 of the Government Code, deferred payment loans made with these funds shall be subject to all of the following special provisions, which shall prevail over conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by the department at any time. Fund commitments shall be based on a ranking of applications, which shall occur at least once every three months until there are insufficient funds available to commit according to this ranking. In making this ranking for rental housing developments, priority shall be given to those projects which (A) serve the greater number of eligible households as defined in Section 50105 with the lowest incomes, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the housing need is great as determined by the department, taking into consideration, among other factors, low

vacancy rates, high market rents, long waiting lists for subsidized housing, the stock of substandard housing, and the potential loss of subsidized rental housing to market-rate housing through demolition, foreclosure, or subsidy termination, (D) complement the implementation of an existing housing program, (E) maximize private, local, and other funding sources, and (F) maximize long-term benefits for eligible households, as defined in Sections 50079.5 and 50105. Subparagraph (B) above shall not apply to applications for fund commitments submitted pursuant to Section 50670 or to any application for residential hotels and motels. In making this ranking for owner-occupied housing, priority shall be given to those applications which (A) serve the greater number of eligible households, as defined in Section 50105, with the lowest income, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the need for rehabilitation is great as determined by the department, taking into consideration, among other factors, the amount of substandard owner-occupied housing, low vacancy rates, and limited availability of affordable housing, (D) complement the implementation of an existing housing program, and (E) maximize available and appropriate private, local, and other funding sources. The department shall also evaluate the capability of the sponsor to rehabilitate, own, and manage the rental housing development or the capability of the applicant for funding for owner-occupied housing to implement the proposed program.

(2) Loans for rental housing developments may be reviewed, approved, and funded by the department directly to the sponsor. In these cases, the department shall ensure that the sponsor notifies the local legislative body of the sponsor's loan application prior to a funding award. Loans to owner-occupants may be made by local public entities or nonprofit corporations which have received fund commitments from the department. The department shall ensure that the local public entity or nonprofit corporation applying for fund commitments for loans to owner-occupants notifies the local legislative body of the application prior to a funding award. When the department certifies a local public entity or nonprofit corporation as being capable of making these loans, the department shall delegate responsibility for reviewing and approving these loans to the local public entity or nonprofit corporation. If it is determined by the department that the local public entity or

nonprofit corporation is no longer capable of making or managing these loans, the department may, at its sole discretion, revoke that delegation of responsibility or cancel the funding commitment to the local public entity or nonprofit corporation, or both. The department's regulations shall include procedures and standards for certification and decertification.

(3) A sponsor may apply for loans for one or more rental housing developments.

(b) (1) A housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state's regulatory agreement, to the eligible households. Notwithstanding the requirements of Section 50663, rental housing developments and owner-occupied units assisted by the program may be located anywhere in the state.

(2) In the case of loans for rental housing developments awarded to nonprofit sponsors, the total secured debt in a superior position to the department's loan, plus the department's loan, shall not exceed 100 percent of the after rehabilitation value of the property, as determined by an appraisal of the property conducted pursuant to guidelines established in regulations of the department.

(3) The maximum loan amounts per unit established in regulations pursuant to Section 50670 shall also apply to rental housing developments rehabilitated or acquired and rehabilitated pursuant to paragraph (1) of subdivision (a) of Section 50661, except that there shall not be a maximum loan amount established per project. These dollar limitations may be increased by the department, as necessary, in high-cost areas of the state or where the correction of severe health and safety defects or the provisions of handicapped accessibility standards necessitate greater assistance. The department, by regulation, may specify unit loan limits for loans made for owner-occupied housing and the circumstances under which it may grant exceptions to, or variances from, these limits.

(4) (A) Loans made to sponsors of rental housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of rental housing developments for rehabilitation only shall be for terms of not less than 20 years. However, the term shall not exceed the useful life of the rental housing development for which the loan is made. The sponsor may

elect to begin to repay the loan at any time in accordance with the prepayment plan established in accordance with paragraph (6), if it is determined by the department, that the sponsors can continue to maintain the rents at levels affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional 10-year terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter.

(5) (A) In the case of loans made for rental housing developments, eligible costs shall include those costs relating to (i) real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project; (ii) rehabilitation or reconstruction, including the conversion of nonresidential structures to residential use; (iii) general property improvements which are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning; (iv) necessary and related onsite improvements; (v) reasonable administrative expenses in connection with the planning and execution of the project, as determined by the department; (vi) reasonable consulting costs; (vii) rent-up costs; (viii) seismic rehabilitation improvements; and (ix) any other costs of rehabilitation authorized by the department. "Rent-up costs," as used in this section, means costs incurred while a unit is on the housing market but not rented to its first tenant. "Seismic rehabilitation improvements," as used in this section, means improvements which are designed to increase seismic structural safety in accordance with a plan developed by a civil engineer, a structural engineer, or an architect for a particular building that has been identified as hazardous by the city or county in which the building is located in accordance with the criteria established by the ~~Seismic Safety Commission~~ *Department of General Services* pursuant to Section 8875.1 of the Government Code or in accordance with a previously adopted city or county seismic safety ordinance adopted pursuant to Section 19163.

(B) In the case of loans made for owner-occupied housing, eligible costs shall include those costs relating to (i) rehabilitation work expenses; (ii) cost of room additions necessary to alleviate overcrowding; (iii) costs of general property improvements including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping and purchase or installation of central air conditioning, to the extent that they are necessary to correct unsafe, unhealthy, or unsanitary conditions; (iv) costs related to necessary architectural, engineering, and other technical consultants; (v) costs of preliminary reports, title policies, credit reports, appraisal reports, and fees for recording documents related to the department's loans; (vi) costs of building permits and other governmental fees; and (vii) if in conjunction with other rehabilitation work, costs for improvements related to making the housing accessible to the handicapped.

(C) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Sections 53131 and 53133, the department may set aside or use any amounts available in the fund to establish a rental housing development default reserve for the purpose of curing or avoiding a sponsor's defaults on the terms of any loan or other obligation which jeopardizes the financial integrity of a rental housing development or the department's security in the rental housing development. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(D) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, or Sections 53131 and 53133, the department may set aside or use proceeds in the fund in an amount not to exceed 3 percent of the amount of encumbrances for loans for owner-occupied housing to establish an owner-occupied housing default reserve for the purpose of curing or avoiding an owner's default on the terms of any loan or other obligation which jeopardizes the department's security in the owner-occupied housing. The payment

or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department, and no homeowner shall be entitled to, or have any right to payment of, these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand. Interest payments from loans for owner-occupied housing shall be allocated by the department into this reserve to replace the allocated proceeds until the percent established by the department is achieved solely with interest payments.

(6) Upon request of the sponsor, the department may permit repayment of a sponsor's loan on the basis of net cash-flow. The department shall develop a prepayment plan in conjunction with the sponsor which will ensure the maintenance of affordable rents and the fiscal integrity of the rental housing development. As an incentive to encourage the prepayment of loans, the department may permit the sponsor to retain one-half of the net cash-flow. The department shall determine the method for calculating net cash-flow, which may include a factor for excess debt service coverage or a return on cash investment to the sponsor.

(7) If a loan is made pursuant to this chapter for both seismic rehabilitation improvements and other eligible rehabilitation costs, only those costs related to the seismic rehabilitation improvements shall be counted and included for purposes of the fund reservation made by Section 8878.20 of the Government Code.

(c) Principal and accumulated interest is due and payable upon completion of the term of the loan. The loan shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. However, the department shall reduce or eliminate interest payments on a loan for any year or, alternatively, defer interest until the deferred payment loan is repaid, if necessary to provide affordable rents to households of very low and low income. The ability to pay all or part of the 3 percent simple annual interest shall not be considered in determining the fiscal integrity of the rental housing development at the time of the rating and ranking of an application.

(1) "Maintain affordable rent levels," as used in this section, means rents may be automatically increased by the sponsor on an annual basis pursuant to an inflation index to be determined by the department. The inflation index shall reflect anticipated annual

changes in rental housing development operating costs from a base year when the rents are initially established. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the rental housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(2) (A) Upon prior written approval by the department, a sponsor may set income limits for incoming tenants at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement. If a tenant's income exceeds the income limit for a household specified in Section 50079.5, the tenant shall be required to vacate the assisted unit within six months from the date of income recertification or notice to the sponsor of an increase in income over the permissible income level. That period may be extended by the sponsor for an additional six-month period in high cost rental areas with low vacancy rates, as determined by the department. Any vacant units shall be rented to eligible households until the required residency by eligible households is attained.

(B) In the case of limited equity housing cooperatives, the provisions of this paragraph shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(3) When operating income as defined by the department is greater than operating expenses, debt service, deposits required for reserve accounts, payments pursuant to paragraph (6) of subdivision (b) if elected by the sponsor, approved annual distributions, and any other disbursements approved by the department, these excess funds shall be paid into an account

established in the fund. Funds in this account shall be appropriated to the department for use to assist rental housing developments funded pursuant to this section with proceeds of bonds issued pursuant to Chapter 27 of the Statutes of 1988, Chapter 30 of the Statutes of 1988, or Chapter 48 of the Statutes of 1988, subject to the following requirements:

(i) Excess funds in the account shall be allocated first into the rental housing development default reserve established pursuant to subparagraph (C) of paragraph (5) of subdivision (b). The balance of this default reserve shall not exceed the maximum level of funding established by regulations adopted by the department.

(ii) After the rental housing development default reserve is fully funded with these excess funds, the department shall use all additional excess funds in the account for payment of either unforeseen capital improvements, the cost of which would jeopardize the fiscal integrity and affordability of a rental housing development, or to further reduce rents in a rental housing development. The department may adopt regulations which specify the procedures and standards for application for, and use of, these funds. Those payments used for capital improvements shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(d) Prior to disbursement of any funds for loans to rental housing developments made pursuant to this section, the department shall enter into a regulatory agreement with the sponsor in accordance with subdivision (d) of Section 50670, except that (1) the term of the regulatory agreement shall be for the original term of the loan and the agreement shall be binding upon the sponsor and successors in interest upon sale or transfer of the rental housing development or prepayment of the loan and (2) a nonprofit sponsor, other than a governmental agency, may maintain a debt service coverage ratio of 115 percent and distribute earnings in an amount no greater than 8 percent of the nonprofit sponsor’s actual investment. The regulatory agreement also shall contain provisions requiring annual inspections and review of year-end fiscal audits and related reports by the department and provisions to maintain affordable rent levels to serve eligible households.

(e) Where loans will be used in conjunction with federal or other housing assistance or tax credits and a conflict exists between the other state or federal program requirements and those of this

chapter with respect to the calculation of rents, the requirements of the Deferred Payment Rehabilitation Loan Program and the Special User Housing Rehabilitation Program may be waived only to the extent necessary to permit federal or other state financial participation or eligibility for tax credits.

(f) "Sponsor," for purposes of this section, has the same meaning as defined in subdivision (c) of Section 50669.

(g) (1) The department shall adopt emergency regulations to implement this chapter and to amend the maximum loan amounts per unit established in regulations adopted pursuant to Section 50670, with respect to loans made with funding subject to this section. The regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

(2) Notwithstanding conflicting provisions of this chapter, the department may elect to make the regulations referred to in paragraph (1) additionally applicable until December 31, 1993, to all other deferred payment loan programs authorized by this chapter, except the programs specified in Sections 50662.5 and 50671, if the department determines that the uniformity achieved thereby will avoid significant additional administrative costs.

(h) For purposes of this section, "rental housing development" means a single family house or a multifamily structure or structures containing two or more dwelling units, including efficiency units. One or more of the dwelling units in a rental housing development shall be rented or leased or otherwise occupied as a primary residence by a person or household who is not the owner of the structure or structures. For the purposes of this section, motels operated pursuant to subdivision (b) of Section 50669, residential hotels, group or congregate homes, and limited equity housing cooperatives are rental housing developments. Except for motels, the limitations concerning types of residents and minimum number of units set forth in subdivision (b) of Section 50669 shall not apply.

(i) "Affordable rent" for the purposes of this section shall be established by the department in the regulations authorized by subdivision (g). However, the initial rents shall be established by the department based on a designated family size for each unit size, and those initial rents shall not exceed 30 percent of 50

percent of the area median income adjusted by that designated family size for units restricted to occupancy by very low income households; or 30 percent of 60 percent of area median income adjusted by that designated family size for units restricted to occupancy by low-income households. In establishing affordable rent levels, the department shall make provision in its regulations for projects serving the physically and mentally handicapped persons.

SEC. 1021. Section 50671.6 of the Health and Safety Code is amended to read:

50671.6. For the purpose of preserving or expanding the supply of rental housing affordable to low- and very low-income tenants in cities or counties affected by a natural disaster as defined by Section 8680.3 of the Government Code, resulting in a state of emergency proclaimed by the Governor pursuant to Section 8625 of the Government Code, financial assistance may be provided as prescribed in this chapter under the following special conditions, which shall prevail over conflicting provisions of this chapter and administrative regulations:

(a) Funds may be used for the purpose of repair or refinancing in conjunction with rehabilitation of rental housing developments. For purposes of this section, rehabilitation may include reconstruction. The loans shall only be made in a city, county, or city and county proclaimed by the Governor to be in a state of disaster and only when the Director of the Department of Housing and Community Development has determined that the disaster has decreased the supply of low-income rental housing. The loan funds may be used to repair disaster related damage, bring the housing into compliance with applicable health and safety and seismic safety standards, and to make property improvements that are related to that compliance. If reconstruction is precluded on the original project site due to documented soil, geological, or other conditions that cannot be mitigated at a reasonable cost, or the cost of the rehabilitation or reconstruction would exceed 110 percent of the value after reconstruction, the department may approve reconstruction on a comparable site in the immediate neighborhood.

(b) (1) Rental housing developments, for this purpose, shall include, but not be limited to, multifamily rental dwellings, apartments, residential hotels, mobilehome parks, group homes for senior citizens or the disabled, buildings of mixed residential

rental and commercial use, and buildings of mixed owner-occupant and rental use that are made available for permanent residency of tenants. Rental housing developments must contain five or more units. For buildings of mixed residential rental and commercial use, funds may be used for costs directly attributable to the residential space or the conversion of commercial space to residential space or a pro-rata share, based on gross floor area mix at the time of the disaster, if costs cannot be directly attributable to either commercial or residential space.

(2) Eligible cost shall include those costs relating to all of the following:

(A) Refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project.

(B) Rehabilitation or reconstruction.

(C) General property improvements that are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning.

(D) Necessary and related onsite improvements.

(E) Reasonable administrative expenses in connection with the planning and execution of the project, as determined by the department.

(F) Reasonable consulting costs.

(G) Rent-up costs.

(H) Seismic rehabilitation improvements.

(I) Any other costs of rehabilitation authorized by the department.

(3) (A) "Rent-up costs," as used in this section, means costs incurred while a unit is on the housing market but not rented to its first tenant.

(B) "Seismic rehabilitation improvements," as used in this section, means improvements that are designed to increase seismic structural safety in accordance with a plan developed by a civil engineer, a structural engineer, or an architect for a particular building that has been identified as hazardous by the city or county in which the building is located in accordance with the criteria established by the ~~Seismic Safety Commission~~ *Department of General Services* pursuant to Section 8875.1 of the Government

Code or in accordance with a previously adopted city or county seismic safety ordinance adopted pursuant to Section 19163.

(4) Eligible activities, not fundable under the program, shall include those costs relating to both of the following:

(A) Acquisition of property.

(B) Conversion of nonresidential structures to residential use.

(c) The loans need not be made in support of the programs specified in Section 50663.

(d) As a condition of assistance under this section, sponsors of rental housing developments shall agree to the restrictions set forth in this subdivision with respect to assisted units. The proportion of assisted units shall at least be equal to the proportion of project costs financed pursuant to this section to the total after-rehabilitation value of the rental housing development.

(1) For any loan under this section for the rehabilitation of units, the borrower must maintain affordable rent levels for low-income households, as defined by Section 50079.5, for assisted units for the term of the loan.

(2) "Maintain affordable rent levels," as used in this section, means rents may be automatically increased by the sponsor on an annual basis pursuant to increases in the median income of the county in which the rental housing development is located. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the rental housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(3) (A) Upon prior written approval by the department, a sponsor may set income limits for incoming tenants at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement. If a tenant's income exceeds the income limit for a household specified in Section 50079.5, the tenant shall be required to vacate the assisted unit within six months from the date of income recertification or notice to the sponsor of an increase in income over the permissible income level. That period may be extended by the sponsor for an additional six-month

period in high cost rental areas with low vacancy rates as determined by the department. Any vacant units shall be rented to eligible households until the required residency by eligible households is attained.

(B) In the case of limited equity housing cooperatives, the provisions of this paragraph shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(4) Any rental housing development assisted pursuant to this section shall be governed by a regulatory agreement between the sponsor and the department. The agreement shall, at a minimum, contain all of the restrictions set forth in this subdivision. The regulatory agreement shall be recorded, or referenced in a document recorded, in the office of the county recorder for the county in which the rental housing development is located. The regulatory agreement shall be deemed a covenant running with the land and shall be binding upon the sponsor and any and all successors-in-interest in case of sale or transfer of the rental housing development for the original term of the loan, and any extensions thereof, regardless of any prepayment of the loan.

(5) If any unit undergoing rehabilitation or reconstruction pursuant to funding under this section is subject to a currently applicable regulatory agreement between the department and a housing sponsor, that agreement shall prevail over this subdivision.

(6) In addition to the other requirements of this chapter, the department may require terms and conditions as it determines necessary to meet the needs of the disaster area and its victims, to ensure the fiscal integrity of the rental housing development, and to protect the interests of the state. The department shall require that priority in occupancy in any unit assisted pursuant to this section shall be given first to those occupants who were displaced by the natural disaster or the resulting rehabilitation of the assisted rental units. Second priority shall be given to other persons who were displaced from housing as a result of the natural disaster.

(e) (1) When the requirements of subdivision (a) have been met, the department shall announce the availability of funds and accept applications for fund commitments until any deadline established pursuant to subdivision (e) of 50661.5 has expired. Fund commitments shall be based on a ranking of applications, which shall occur at least once for each new disaster. In making this ranking for rental housing developments, priority shall be given to those projects that: (A) serve the greater number of eligible households, as defined in Section 50105, with the lowest incomes; (B) suffered substantial damage as a result of the natural disaster; (C) are located in areas where the housing need is great as determined by the department, taking into consideration, among other factors, low vacancy rates, high market rents, long waiting lists for subsidized housing, the stock of substandard housing, and the potential loss of subsidized rental housing to market-rate housing through demolition, foreclosure, or subsidy termination; (D) complement the implementation of an existing housing program; (E) maximize private local and other funding sources; and (F) maximize long-term benefits for eligible households, as defined in Sections 50079.5 and 50105.

(2) The department shall also evaluate the capability of the sponsor to rehabilitate, own, and manage the rental housing development.

(f) (1) The department may waive the maximum loan amounts and per-unit loan amounts established by regulation as it determines necessary to serve the disaster victims. Loans made pursuant to this section for rehabilitation, shall have a term of up to 20 years. Loans made pursuant to this section for rehabilitation, or refinancing and rehabilitation shall have a term of up to 30 years.

(2) Upon request of the sponsor, the department may permit repayment of a sponsor's loan on the basis of net ~~cash-flow~~ *cashflow*. The department shall develop a prepayment plan in conjunction with the sponsor that shall ensure the maintenance of affordable rents and the fiscal integrity of the rental housing development. As an incentive to encourage the prepayment of loans, the department may permit the sponsor to retain one-half of the net ~~cash-flow~~ *cashflow*. The department shall determine the method for calculating net ~~cash-flow~~ *cashflow*, which may include a factor for excess debt service coverage or a return on cash investment to the sponsor.

(3) Principal and accumulated interest is due and payable upon completion of the term of the loan. The loan shall bear interest at the rate of three percent per annum on the unpaid principal balance. However, the department shall reduce or eliminate interest payments on a loan for any year or, alternatively, defer interest until the deferred payment loan is repaid, if necessary to provide affordable rents to households of very low-income and low-income. The ability to pay all or part of the three percent simple annual interest shall not be considered in determining the fiscal integrity of the rental housing development at the time of the rating and ranking of an application.

(g) When a loan will be used in conjunction with federal or other state housing assistance or tax credits, and a conflict exists between the other state or federal program requirements and this chapter with regard to determining maximum allowable rents, the requirements of this chapter may be waived only to the extent necessary to permit the federal or other state financial participation or eligibility for tax credits.

(h) Tenants of rental housing developments rehabilitated with assistance provided under this section who are displaced as a result of either the rehabilitation work, or both the natural disaster and the subsequent rehabilitation work, shall be entitled to relocation benefits pursuant to, and subject to, the requirements of Section 7265.3 of the Government Code. The costs of the benefits and the assistance provided to tenants shall be eligible for funding by a loan provided pursuant to this section. Benefits and assistance provided hereunder shall not duplicate benefits or assistance for temporary housing received by tenants from any other public source or from insurance proceeds.

(i) The department may make loans directly to owners of rental housing, or contract for the administration of loans under this section with entities that it determines to have the necessary experience to successfully administer the loan program, including, but not limited to, local public agencies and private organizations. The department may authorize, under that contract, the payment of expenses incurred by the entities in administering the loan program and may prescribe the conditions pursuant to which the entities shall administer the loans.

(j) To the extent that any housing unit or other structure that was damaged or destroyed is reconstructed pursuant to this section

with substantially the same number of units, it shall be deemed to be ~~"existing~~ "*existing* housing" for purposes of subdivision (d) of Section 37001.5.

(k) Any rule, policy, or standard of general application employed by the Department of Housing and Community Development in implementing this section shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(*l*) The department shall adopt regulations establishing terms and conditions upon which repair loans may be made. These regulations shall be made available to the public by the department.

(m) Fund allocations made pursuant to this section shall not be subject to review or approval by the Local Assistance Loan and Grant Committee of the Department of Housing and Community Development operating pursuant to Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Title 25 of the California Code of Regulations.

(n) (1) In order to be eligible for one or more loans pursuant to this section, the borrower shall agree to all of the following:

(A) All buildings shall be connected to the foundation systems, except those of unreinforced masonry wall construction, as necessary to meet the seismic requirements of the 1973 Edition of the Uniform Building Code of the International Conference of Building Officials in a manner approved by the department, that may include seismic strengthening of foundation cripple walls, and affixing or bolting sill plates to the foundation.

(B) For all buildings of unreinforced masonry wall construction, all repairs and seismic retrofits shall comply with earthquake hazard mitigation programs established pursuant to Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

(C) All water heaters shall be braced, anchored, or strapped to resist falling or horizontal displacement due to an earthquake motion.

(2) The loans shall include an amount sufficient to meet the requirements of paragraph (1).

SEC. 1022. Section 51614 of the Health and Safety Code is amended to read:

51614. (a) The agency is hereby vested with full power, authority, and jurisdiction over the insurance fund. The agency

may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the insurance fund, either in the administration thereof or in connection with the business administered under this part, as fully and completely as the governing body of a private insurance carrier.

(b) The agency may create task forces and advisory committees, when appropriate and as the members deem necessary, for the purpose of obtaining advice on issues arising as a result of the agency's activities under this part. Ex officio members of those task forces and advisory committees may include, but are not limited to, the Insurance Commissioner or his or her designee, the Director of Housing and Community Development or his or her designee, the Director of ~~the Seismic Safety Commission~~ *General Services* or his or her designee, and the Director of the Office of Emergency Services or his or her designee.

SEC. 1023. Section 55100 of the Health and Safety Code is amended to read:

55100. The local agency may, from time to time, issue its bonds in the principal amount as the local agency shall determine to be necessary to provide sufficient funds for financing under this division and for the payment of interest on bonds of the local agency, establishment of reserves to secure the bonds, and other expenditures of the local agency incident to, and necessary or convenient to, issuance of the bonds.

Prior to the issuance of any bonds pursuant to this division, the local agency shall submit to the California Housing Finance Agency, a statement of purpose for which the bonds are proposed to be issued and the amount of the proposed issuance. The California Housing Finance Agency shall review every statement submitted to it by a local agency pursuant to this section. The California Housing Finance Agency shall determine the general adequacy of the program's security in protecting the state's credit. If the California Housing Finance Agency finds the state's credit would be subject to an undue risk, it may disapprove the proposed issuance or reduce the amount of the proposed issuance. If the California Housing Finance Agency has not acted within 30 days of the date that a statement was submitted pursuant to this section, the proposed issuance shall be deemed approved by the California Housing Finance Agency.

The aggregate amount of all bonds approved by the California Housing Finance Agency pursuant to this section shall not exceed two hundred million dollars ($200,000,000). The California Housing Finance Agency shall reserve seventy-five million dollars ($75,000,000), which shall not be allocated for 24 months after the effective date of this division. No agency shall initially receive an allocation exceeding fifty million dollars ($50,000,000). If an initial request exceeds one hundred twenty-five million dollars ($125,000,000), the California Housing Finance Agency shall reduce all requests on the basis of the ratio of eligible buildings in the jurisdiction to the estimated number of eligible buildings in the state as determined by the Seismic Safety Commission until one hundred twenty-five million dollars ($125,000,000) is reached. Twenty-four months after the effective date of this division, the California Housing Finance Agency may allocate any remaining funds. Funds shall first be allocated to any local agency that has not received an allocation. If these requests exceed the available funds, the California Housing Finance Agency shall reduce all requests on the basis of the ratio of eligible buildings in the jurisdiction to the estimated number of eligible buildings in the state, as determined by the ~~Seismic Safety Commission~~ *Department of General Services*. If there are funds remaining after allowing for requests by local agencies that have not previously received an allocation, any local agency which had previously received an allocation may request further allocations. Any allocations made to local agencies that have previously received allocations shall be made only on the basis of the ratio of eligible buildings in the jurisdiction to the estimated number of eligible buildings in the state, as determined by the ~~Seismic Safety Commission~~ *Department of General Services*. Eligible buildings in the jurisdiction shall be determined on the basis of an inventory. After that authorization has been exhausted, all further proposals for issuance of bonds pursuant to this division shall be deemed disapproved by the California Housing Finance Agency.

The local agency shall reimburse the California Housing Finance Agency for all administrative costs incurred by the California Housing Finance Agency pursuant to this section.

SEC. 1024. Section 57012 of the Health and Safety Code is amended to read:

57012. (a) Each agency listed in subdivision (d) shall maintain a list of all instruments and agreements restricting land uses imposed by that agency under Section 1471 of the Civil Code or any provision of law that is administered by that agency, in accordance with all of the following requirements:

(1) The list shall provide a description of location for each property that, at a minimum, provides the street address and the assessor's parcel number. If a street address or assessor's parcel number is not available, or if a street address or assessor's parcel number does not adequately describe the property affected by the instrument or agreement restricting land use, the list shall include a description of location or the location's geographic coordinates.

(2) The list shall provide a description of any restricted uses of the property, contaminants known to be present, and any remediation of the property, if known, that would be required to allow for its unrestricted use. The recorded instrument or agreement restricting land uses may be provided in lieu of the description required by this paragraph.

(3) Each agency shall update its list as new instruments and agreements restricting land uses are recorded and as instruments and agreements restricting land uses on properties are changed.

(b) Each agency listed in subdivision (d) shall display the list required under subdivision (a) on that agency's Web site, and shall make the list available to the public upon request.

(c) The California Environmental Protection Agency shall oversee the implementation of this section. In overseeing the implementation of this section, the California Environmental Protection Agency shall do all of the following:

(1) Maintain on its Web site hyperlinks to the individual lists posted pursuant to this section.

(2) Provide a search function that is able to search and retrieve information from each of the individual lists posted pursuant to this section.

(3) Create and post a list of all instruments and agreements restricting land uses that have been sent pursuant to subdivision (e) of Section 1471 of the Civil Code. The list created and posted pursuant to this paragraph shall meet all of the following requirements:

(A) The list shall identify the entity or jurisdiction that imposed the instrument or agreement restricting land uses.

(B) The list shall include the information required by paragraphs (1) and (2) of subdivision (a).

(C) The list shall be maintained for informational purposes only.

(D) The list shall contain a notation that information regarding the listed properties has been provided voluntarily, that the list is not all-inclusive, and that there may be additional sites where instruments or agreements restricting land uses have been imposed by other entities that have not been included on the list.

(d) This section applies to the California Environmental Protection Agency and to ~~all of~~ the following entities within the agency:

~~(1) The California Integrated Waste Management Board.~~

~~(2)~~

(1) The State Water Resources Control Board, and each California regional water quality control board.

~~(3)~~

(2) The Department of Toxic Substances Control.

SEC. 1025. Section 105405 of the Health and Safety Code is amended to read:

105405. (a) The department through its Indoor Air Quality Program shall develop nonbinding guidelines for the reduction of exposure to volatile organic compounds (VOC) from construction materials in newly constructed or remodeled office buildings. At a minimum, the department shall consider all of the following:

(1) The type of building to which the guidelines shall apply.

(2) The methodology for identifying indoor sources of VOC.

(3) The bake-out procedures prior to occupancy for newly constructed buildings.

(4) The procedures for VOC reduction during and after major remodeling of occupied buildings.

(5) The need to establish mandatory regulations rather than nonbinding guidelines for the procedures to reduce VOC exposure in newly constructed buildings and during the remodeling of buildings and, in addition, the need for regulation regarding the occupancy of a newly constructed building or a building undergoing remodeling where VOC reduction is to be a consideration.

(6) The need to establish an ad hoc group of building construction material manufacturers, builders, building owners and managers, organized labor, sheetmetal contractors, plumbing

contractors, mechanical engineers, architects, and building inspectors to advise the department on procedures and costs related to implementing the proposed guidelines.

(b) The department shall develop and submit the nonbinding guidelines to the Legislature, and file copies with the Department of General Services ~~and the State Building Standards Commission~~, by January 1, 1992.

(c) The guidelines developed by the department pursuant to this section shall be nonbinding and voluntary, and shall therefore, be exempt from the procedures for adoption of regulations, including the review and approval by the Office of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code.

SEC. 1026. Section 116064 of the Health and Safety Code is amended to read:

116064. (a) As used in this section the following words have the following meanings:

(1) (A) "Public wading pool" means a pool that meets all of the following criteria:

(i) It has a maximum water depth not exceeding 18 inches.

(ii) It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B) "Public wading pool" includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C) "Public wading pool" includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2) "Alteration" means any of the following:

(A) To change, modify, or rearrange the structural parts or the design.

(B) To enlarge.

(C) To move the location of.

(D) To install a new water circulation system.

(E) To make any repairs costing fifty dollars ($50) or more to an existing circulation system.

(b) A public wading pool shall have at least two circulation drains per pump that are hydraulically balanced and symmetrically

plumbed through one or more "T" fittings, and are separated by a distance of at least three feet in any dimension between the drains.

(c) All public wading pool main drain suction outlets that are under 12 inches across shall be covered with antivortex grates or similar protective devices. All main drain suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d) (1) The ~~State Department of Health Services~~ *State Department of Public Health* may adopt regulations pursuant to this section.

(2) The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3) Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to subdivision (e) of Section 11343 of the Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e) The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: "NOTE: These building standards are in statute but have not been adopted through the regulatory process." Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f) The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump's flow comes from the main drain system and any main drain suction fitting in the system is completely blocked.

(g) On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h) Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i) By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

SEC. 1027. Section 118505 of the Health and Safety Code is amended to read:

118505. (a) Publicly and privately owned facilities where the public congregates shall be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours.

(b) In conformity with the State Plumbing Code, and except as otherwise provided in this section, standards shall be adopted in order to enforce this section, as follows:

(1) The ~~State Building Standards Commission~~ *Department of General Services* shall adopt standards with respect to all state-owned or state-occupied facilities where the public congregates and over which it has jurisdiction pursuant to Section 18934.5.

(2) The Office of the State Architect shall adopt standards with respect to all facilities where the public congregates and that are not covered by paragraph (1), unless exempt from coverage pursuant to this section.

(c) The standards adopted pursuant to subdivision (b) shall be published in the State Building Standards Code contained in Title 24 of the California Code of Regulations.

(d) This section shall apply to facilities where the public congregates that commence construction, or that undertake structural alterations, repairs, or improvements exceeding 50 percent of the entire facility, on or after January 1, 1989.

(e) For the purposes of this section, “facilities where the public congregates” means sports and entertainment arenas, stadiums, community and convention halls, specialty event centers, amusement facilities, and ski resorts.

For purposes of this section, “facilities where the public congregates” also means specialty event centers in public parks.

(f) This section shall not apply to the following:

(1) Any hotel. For purposes of this section, "hotel" means an establishment in which there exists the relationship of guests and innkeeper between the occupants and the owner or operator of the establishment. The existence of some other legal relationship between the occupants and owner or operator shall be immaterial.

(2) Any restaurant or food facility, as defined in Section ~~113785~~ *113789*.

(3) Any public or private elementary or secondary school facility.

(4) Any qualified historic building, defined as qualifying under provisions in the State Historical Building Code contained in Part 8 (commencing with Section 8-100) of Title 24 of the California Code of Regulations.

(g) It is the intent of the Legislature that, in order to ensure that standards are both viable and efficacious, the Office of the State Architect and the ~~State Building Standards Commission~~ *Department of General Services* hold a series of public meetings with representatives of affected industries and state and local agencies prior to adopting standards under this section.

SEC. 1028. Section 127785 of the Health and Safety Code is amended to read:

127785. The ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid* shall furnish to the office, at least biennially, all information that the ~~commission~~ *Office of Higher Education and Financial Aid* has compiled pursuant to Section 66903.2 of the Education Code, that constitutes basic data as to enrollees in public and private educational institutions and programs preparing or training health personnel. The office may request additional data from licensing boards and agencies to supplement the data received from the ~~commission~~ *Office of Higher Education and Financial Aid*, as necessary to carry out the health personnel planning and development activities of the office.

SEC. 1029. Section 127929 of the Health and Safety Code is amended to read:

127929. (a) The office shall administer the California Medical and Dental Student Loan Repayment Program of 2002. Any individual enrolled in an institution of postsecondary education participating in the program set forth in this article may be eligible to receive a conditional warrant for loan repayment, to be redeemed

upon becoming employed as a physician or dentist in a medically underserved area or a dentally underserved area serving primarily medically or dentally underserved populations. In order to be eligible to receive a conditional loan repayment warrant, an applicant shall satisfy all of the following conditions:

(1) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(2) In order to meet the costs associated with obtaining a medical or dental degree, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (10 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(3) The applicant has agreed to provide services as a licensed physician for up to three consecutive years, after obtaining a license from the Medical Board of California in a medically underserved area, or the applicant has agreed to provide services as a licensed dentist for up to three consecutive years, after obtaining a license from the Dental Board of California in a dentally underserved area.

(4) The applicant has agreed to work in a setting where the applicant will primarily serve medically or dentally underserved populations.

(b) The office shall ensure that priority consideration be given to applicants who are best suited to meet the cultural and linguistic needs and demands of medically and dentally underserved populations and who meet one or more of the following criteria:

(1) Speak a Medi-Cal threshold language.

(2) Come from an economically disadvantaged background.

(3) Have received significant training in cultural and linguistically appropriate service delivery.

(4) Have done a medical rotation serving medically underserved populations or provided dental services to members of a dentally underserved population.

(c) A person participating in the program pursuant to this section shall not receive more than one warrant.

(d) The office shall adopt rules and regulations regarding the reallocation of warrants if a participating institution is unable to utilize its allocated warrants or is unable to distribute them within a reasonable time period.

SEC. 1030. Section 128030 of the Health and Safety Code is amended to read:

128030. The office~~, in cooperation with the California Postsecondary Education Commission,~~ shall administer the program established pursuant to this article and shall for this purpose, adopt regulations as it determines are reasonably necessary to carry out this article.

SEC. 1031. Section 128445 of the Health and Safety Code is amended to read:

128445. In developing this program, the Health Professions Education Foundation shall solicit the advice of the representatives of the ~~Board of Registered Nursing~~ *Department of Consumer Affairs*, the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, the California Nurses Association, the California Association of Health Facilities, the California Association of Homes for the Aging, the Chancellor of the California State University, the President of the University of California, and other entities as may be appropriate.

SEC. 1032. Section 128695 of the Health and Safety Code is repealed.

~~128695. There is hereby created the California Health Policy and Data Advisory Commission to be composed of 13 members.~~

~~The Governor shall appoint nine members, one of whom shall be a hospital chief executive officer, one of whom shall be a chief executive officer of a hospital serving a disproportionate share of low-income patients, one of whom shall be a long-term care facility chief executive officer, one of whom shall be a freestanding ambulatory surgery clinic chief executive officer, one of whom shall be a representative of the health insurance industry involved in establishing premiums or underwriting, one of whom shall be a representative of a group prepayment health care service plan,~~

~~one of whom shall be a representative of a business coalition concerned with health, and two of whom shall be general members. The Speaker of the Assembly shall appoint two members, one of whom shall be a physician and surgeon and one of whom shall be a general member. The Senate Rules Committee shall appoint two members, one of whom shall be a representative of a labor coalition concerned with health, and one of whom shall be a general member.~~

~~The Governor shall designate a member to serve as chairperson for a two-year term. No member may serve more than two, two-year terms as chairperson. All appointments shall be for four-year terms. No individual shall serve more than two, four-year terms.~~

SEC. 1033. Section 128695 is added to the Health and Safety Code, to read:

128695. (a) The Office of Statewide Health Planning and Development succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Health Policy and Data Advisory Commission.

(b) All officers and employees of the Health Policy and Data Advisory Commission who are serving in the state civil service, other than as temporary employees, shall be transferred to the Office of Statewide Health Planning and Development. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Office of Statewide Health Planning and Development, pursuant to the State Civil Service Act (Part 2(commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(c) The Office of Statewide Health Planning and Development shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the Health Policy and Data Advisory Commission

(d) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall

remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(e) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

SEC. 1034. Section 128705 of the Health and Safety Code is amended to read:

128705. *(a)* On and after January 1, 1986, any reference in this code to the Advisory Health Council shall be deemed a reference to the California Health Policy and Data Advisory Commission.

(b) Notwithstanding subdivision (a), on and after the effective date of the act or the Governor's Reorganization Plan that amended this section in the 2007–08 Regular Session, any reference to the Advisory Health Council or to the California Health Policy and Data Advisory Commission shall be deemed to be a reference to the Office of Statewide Health Planning and Development.

SEC. 1035. Section 128710 of the Health and Safety Code is repealed.

~~128710. The California Health Policy and Data Advisory Commission shall meet at least once every two months, or more often if necessary to fulfill its duties.~~

SEC. 1036. Section 128715 of the Health and Safety Code is repealed.

~~128715. The members of the commission shall receive per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the commission.~~

SEC. 1037. Section 128720 of the Health and Safety Code is amended to read:

128720. The ~~commission~~ *Office of Statewide Health Planning and Development* may appoint an executive secretary *on health policy and health data* subject to approval by the Secretary of ~~Health and Welfare~~ *California Health and Human Services*. ~~The~~

~~office shall provide other staff to the commission as the office and the commission deem necessary.~~

SEC. 1038. Section 128760 of the Health and Safety Code is amended to read:

128760. (a) On and after January 1, 1986, those systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities but shall be maintained by the office ~~with the advice of the Health Policy and Data Advisory Commission~~.

(b) The office~~, with the advice of the commission,~~ shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this chapter if the modifications are necessary to do any of the following:

(1) To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

(2) To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3) To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(c) Modifications to discharge data reporting requirements. The office~~, with the advice of the commission,~~ shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. This modification authority shall not be construed to permit the office to administratively require the reporting of discharge data items not specified pursuant to Section 128735.

(d) Modifications to emergency care data reporting requirements. The office~~, with the advice of the commission,~~ shall allow and provide, in accordance with appropriate regulations, for modifications to emergency care data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. This modification authority shall not be construed to permit the office to require administratively the reporting of

emergency care data items not specified in subdivision (a) of Section 128736.

(e) Modifications to ambulatory surgery data reporting requirements. The office~~, with the advice of the commission,~~ shall allow and provide, in accordance with appropriate regulations, for modifications to ambulatory surgery data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. The modification authority shall not be construed to permit the office to require administratively the reporting of ambulatory surgery data items not specified in subdivision (a) of Section 128737.

(f) Reporting provisions for health facilities. The office~~, with the advice of the commission,~~ shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. These health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner that is consistent with the operating principles of these plans and with generally accepted accounting principles. When these health facilities are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions. As a group, they shall submit a consolidated income and expense statement.

(g) Hospitals authorized to report as a group under this subdivision may elect to file cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII of the federal Social Security Act in lieu of any comparable cost reports required under Section 128735. However, to the extent that cost data is required from other hospitals, the cost data shall be reported for each individual institution.

(h) The office~~, with the advice of the commission,~~ shall adopt comparable modifications to the financial reporting requirements of this chapter for county hospital systems consistent with the purposes of this chapter.

SEC. 1039. Section 128765 of the Health and Safety Code is amended to read:

128765. (a) The office~~, with the advice of the commission,~~ shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the office~~, with the advice of the commission,~~ may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on its Web site, with the exception of discharge and encounter data that shall be available for public inspection unless the office determines, pursuant to applicable law, that an individual patient's rights of confidentiality would be violated.

(b) The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the office's Internet Web site.

(c) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office~~, with the advice of the commission,~~ shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. The summaries shall be posted on the office's

Internet Web site. The ~~commission~~ *office* shall approve the policies and procedures relative to the manner of data disclosure to the public. The office~~, with the advice of the commission,~~ may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to ~~assure~~ *ensure* that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director ~~and the commission~~ with an annual report on changes that can be made to improve the public's access to data.

SEC. 1040. Section 128770 of the Health and Safety Code is amended to read:

128770. (a) Any health facility or freestanding ambulatory surgery clinic that does not file any report as required by this chapter with the office is liable for a civil penalty of one hundred dollars ($100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the office~~, with the advice of the commission~~.

(b) Any health facility that does not use an approved system of accounting pursuant to the provisions of this chapter for purposes of submitting financial and statistical reports as required by this chapter shall be liable for a civil penalty of not more than five thousand dollars ($5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the office. Assessment of a civil penalty may, at the request of any health facility or freestanding ambulatory surgery clinic, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money that is received by the office pursuant to this section shall be paid into the General Fund.

SEC. 1041. Section 129850 of the Health and Safety Code is amended to read:

129850. Except as provided in Sections 18929 and 18930, the office shall from time to time make any regulations that it deems necessary, proper, or suitable to effectually carry out this chapter. The office shall also propose and submit building standards to the

~~California Building Standards Commission~~ *Department of General Services* for adoption and approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 relating to seismic safety for hospital buildings.

SEC. 1042. Section 129940 of the Health and Safety Code is amended to read:

129940. (a) There shall be six ex officio members of the board, who shall be the director of the office, the State Fire Marshal, the State Geologist, the ~~Executive~~ Director of ~~the California Building Standards Commission~~ *General Services*, the State ~~Director of Health Services~~ *Public Health Officer*, and the Deputy Director of the Division of Facilities Development in the office, or their officially designated representatives.

(b) The director may also appoint up to three additional ex officio members, with the advice of the chair. On January 1, 1994, director-appointed ex officio members may continue to serve until appointment of their successors by the director.

SEC. 1043. Section 130005 of the Health and Safety Code is amended to read:

130005. By June 30, 1996:

(a) The Office of Statewide Health Planning and Development, hereinafter called the office, shall develop definitions of earthquake performance categories for earthquake ground motions for both new and existing hospitals that are:

(1) Reasonably capable of providing services to the public after a disaster, designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds, and in full compliance with the regulations and standards developed by the office pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act.

(2) In substantial compliance with the pre-1973 California Building Standards Codes, but not in substantial compliance with the regulations and standards developed by the office pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act. These buildings may not be repairable or functional but will not significantly jeopardize life.

(3) Potentially at significant risk of collapse and that represent a danger to the public.

(b) The office may define other earthquake performance categories as it deems necessary to meet the intent of this article and the Alfred E. Alquist Hospital Facilities Seismic Safety Act.

(c) Earthquake performance categories shall also include subgradations for risk to life, structural soundness, building contents, and nonstructural systems that are critical to providing basic services to hospital inpatients and the public after a disaster.

(d) Earthquake performance categories shall, as far as practicable, use language consistent with definitions and concepts as developed in the model codes and other state and federal agencies. Where the office finds that deviations from other's definitions and concepts are necessary and warranted to comply with the intent of the Alfred E. Alquist Hospital Facilities Seismic Safety Act, the act that added this article, or the specific nature or functions of hospitals, the office shall provide supporting documentation that justifies these differences.

(e) Insofar as practicable, the office shall define rapid seismic evaluation procedures that will allow owners to determine with reasonable certainty the existing applicable earthquake performance categories and the minimum acceptable earthquake performance categories for hospital buildings. These procedures shall allow for abbreviated analysis when known vulnerability is clear and when construction in accordance with post-1973 codes allows for an evaluation focusing on limited structural and nonstructural elements.

(f) The office, in consultation with the Hospital Building Safety Board, shall develop regulations to identify the most critical nonstructural systems and to prioritize the timeframes for upgrading those systems that represent the greatest risk of failure during an earthquake.

(g) The office shall develop regulations as they apply to the administration of seismic standards for retrofit designs, construction, and field reviews for the purposes of this article.

(h) The office shall develop regulations for the purpose of reviewing requests and granting delays to hospitals demonstrating a need for more time to comply with Section 130060.

(i) The office shall submit all information developed pursuant to subdivisions (a) to (f), inclusive, to the California Building Standards Commission by June 30, 1996.

(j) The office shall submit all information developed pursuant to subdivisions (g) and (h) to the California Building Standards Commission by December 31, 1996.

(k) "Hospital building," as used in Article 8 and Article 9 of this chapter means a hospital building as defined in Section 129725 and that is also licensed pursuant to subdivision (a) of Section 1250, but does not include these buildings if the beds licensed pursuant to subdivision (a) of Section 1250, as of January 1, 1995, comprise 10 percent or less of the total licensed beds of the total physical plant, and does not include facilities owned or operated, or both, by the Department of Corrections *and Rehabilitation*.

SEC. 1044. Section 130020 of the Health and Safety Code is amended to read:

130020. (a) By December 31, 1996, the ~~California Building Standards Commission~~ *Department of General Services* shall review, revise as necessary and adopt earthquake performance categories, seismic evaluation procedures, and standards and timeframes for upgrading the most critical nonstructural systems as developed by the office. By June 30, 1997, the ~~California Building Standards Commission~~ *Department of General Services* shall review, revise as necessary, and adopt seismic retrofit building standards and procedures for reviewing requests and granting delays to hospitals that demonstrate a need for more time to comply with Section 130060.

(b) For purposes of this section all submittals made by the office pursuant to subdivisions (i) and (j) of Section 130005 shall be deemed as emergency regulations and adopted as such.

SEC. 1045. Section 130063 of the Health and Safety Code is amended to read:

130063. (a) With regard to a general acute care hospital building located in Seismic Zone 3 as indicated in the 1995 edition of the California Building Standards Code, any hospital may request an exemption from Non-Structural Performance Category-3 requirements in Title 24 of the California Code of Regulations if the hospital building complies with the year 2002 nonstructural requirements.

(b) The office shall determine the maximum allowable level of earthquake ground shaking potential for purposes of this section.

(c) To qualify for an exemption under this section, a hospital shall provide a site-specific engineering geologic report that

demonstrates an earthquake ground shaking potential below the maximum allowable level of earthquake ground shaking potential determined by the office pursuant to subdivision (b).

(d) (1) To demonstrate an earthquake ground shaking potential as provided in subdivision (c), a hospital shall submit a site-specific engineering geologic report to the office.

(2) The office shall forward the report received from a hospital to the ~~Division of Mines~~ *Board of Mining* and Geology in the Department of Conservation for purposes of a review.

(3) If, after review of the analysis, the ~~Division of Mines~~ *Board of Mining* and Geology concurs with the findings of the report, it shall return the report with a statement of concurrence to the office. Upon the receipt of the statement, if the ground shaking potential is below that established pursuant to subdivision (b), the office shall grant the exemption requested *per department's Web site*.

(e) A hospital building that is eligible for an exemption under this section shall meet the January 1, 2030, nonstructural requirement deadline if the building is to be used for general acute care inpatient services after January 1, 2030.

(f) A hospital requesting an exemption pursuant to this section shall pay the actual expenses incurred by the office and the ~~Division of Mines~~ *Board of Mining* and Geology.

(g) All regulatory submissions to the ~~California Building Standards Commission~~ *Department of General Services* made by the office for purposes of this section shall be deemed to be emergency regulations and shall be adopted as emergency regulations. This emergency regulation authority shall remain in effect until January 1, 2004.

SEC. 1046. Section 1063.1 of the Insurance Code is amended to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with subdivision (a) of Section 1063, except and to the extent that the insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means an insurer that was a member insurer of the association, consistent with paragraph (11) of subdivision (c), either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation or receivership with a finding of insolvency has been

entered by a court of competent jurisdiction, or, in the case of the State Compensation Insurance Fund, if a finding of insolvency is made by a duly enacted legislative measure.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (A) imposed by law and within the coverage of an insurance policy of the insolvent insurer; (B) which were unpaid by the insolvent insurer; (C) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (D) which were incurred prior to the date coverage under the policy terminated and prior to, on, or within 30 days after the date the liquidator was appointed; (E) for which the assets of the insolvent insurer are insufficient to discharge in full; (F) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state; and (G) in the case of other classes of insurance if the claimant or insured is a resident of this state at the time of the insured occurrence, or the property from which the claim arises is permanently located in this state.

(2) "Covered claims" also include the obligations assumed by an assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. "Covered claims" under this paragraph shall be required to satisfy the requirements of subparagraphs (A) to (G), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) "Covered claims" does not include obligations arising from the following:

(A) Life, annuity, health, or disability insurance.

(B) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(C) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(D) Credit insurance.

(E) Title insurance.

(F) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.

(G) Any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses, except a special excess workers' compensation policy issued pursuant to subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers' compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) "Covered claims" does not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request, or after the insurance policy has been canceled by the association as provided in this chapter, or after the insurance policy has been canceled by the liquidator, nor any obligations to any state or to the federal government.

(5) "Covered claims" does not include any obligations to insurers, insurance pools, or underwriting associations, nor their claims for contribution, indemnity, or subrogation, equitable or otherwise, except as otherwise provided in this chapter.

An insurer, insurance pool, or underwriting association may not maintain, in its own name or in the name of its insured, any claim or legal action against the insured of the insolvent insurer for contribution, indemnity or by way of subrogation, except insofar as, and to the extent only, that the claim exceeds the policy limits of the insolvent insurer's policy. In those claims or legal actions, the insured of the insolvent insurer is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, does not include any claim in an amount of one hundred dollars ($100) or less, nor that portion of any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) "Covered claims" does not include that portion of any claim, other than a claim for workers' compensation benefits, that is in excess of five hundred thousand dollars ($500,000).

(8) "Covered claims" does not include any amount awarded as punitive or exemplary damages, nor any amount awarded by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board pursuant to Section 5814 or 5814.5 because payment of compensation was unreasonably delayed or refused by the insolvent insurer.

(9) "Covered claims" does not include (A) any claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (B) any claim by any person other than the original claimant under the insurance policy in his or her own name, his or her assignee as the person entitled thereto under a premium finance agreement as defined in Section 673 and entered into prior to insolvency, his or her executor, administrator, guardian or other personal representative or trustee in bankruptcy and does not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(10) "Covered claims" does not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to Sections 11802 and 11803.

(11) "Covered claims" does not include any obligations of the insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(12) "Covered claims" does not include surplus deposits of subscribers as defined in Section 1374.1.

(13) "Covered claims" shall also include obligations arising under an insurance policy written to indemnify a permissibly self-insured employer pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code for its liability to pay workers'

compensation benefits in excess of a specific or aggregate retention, provided, however, that for purposes of this article, those claims shall not be considered workers' compensation claims and therefore are subject to the per claim limit in paragraph (7) and any payments and expenses related thereto shall be allocated to category (c) for claims other than workers' compensation, homeowners, and automobile, as provided in Section 1063.5.

These provisions shall apply to obligations arising under any policy as described herein issued to a permissibly self-insured employer or group of self-insured employers pursuant to Section 3700 of the Labor Code and notwithstanding any other provision of the Insurance Code, those obligations shall be governed by this provision in the event that the Self-Insurers' Security Fund is ordered to assume the liabilities of a permissibly self-insured employer or group of self-insured employers pursuant to Section 3701.5 of the Labor Code. The provisions of this paragraph apply only to insurance policies written to indemnify a permissibly self-insured employer or group of self-insured employers under subdivision (b) or (c) of Section 3700, for its liability to pay workers' compensation benefits in excess of a specific or aggregate retention, and this paragraph does not apply to special excess workers' compensation insurance policies unless issued pursuant to authority granted in subdivision (c) of Section 3702.8 of the Labor Code, and as provided for in subparagraph (G) of paragraph (3) of subdivision (c). In addition, this paragraph does not apply to any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses as are excluded in subparagraph (G) of paragraph (3) of subdivision (c).

Each permissibility self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall, to the extent required by the Labor Code, be responsible for paying, adjusting, and defending each claim arising under policies of insurance covered under this section, unless the benefits paid on a claim exceed the specific or aggregate retention, in which case.

(A) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy requires the insurer to defend and adjust the claim, the California Insurance Guarantee Association (CIGA) shall be solely responsible for adjusting and defending the claim, and shall make all payments due under the claim, subject to the limitations and exclusions of this article with

regards to covered claims. As to each claim subject to this paragraph, notwithstanding any other provisions of the Insurance Code or the Labor Code, and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund, shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in subdivision (c).

(B) If the benefits paid on the claim exceed the specific or aggregate retention, and the policy does not require the insurer to defend and adjust the claim, the permissibility self-insured employer or group of self-insured employers, or the Self-Insurers' Security Fund, shall not have any further payment obligations with respect to the claim, but shall continue defending and adjusting the claim, and shall have the right, but not the obligation, in any proceeding to assert all applicable statutory limitations and exclusions as contained in this article with regard to the covered claim. CIGA shall have the right, but not the obligation, to intervene in any proceeding where the self-insured employer, group of self-insured employers, or the Self-Insurers' Security Fund is defending any such claim and shall be permitted to raise the appropriate statutory limitations and exclusions as contained in this article with respect to covered claims. Regardless of whether the self-insured employer or group of employers, or the Self-Insurers' Security Fund, asserts the applicable statutory limitations and exclusions, or whether CIGA intervenes in any such proceeding, CIGA shall be solely responsible for paying all benefits due on the claim, subject to the exclusions and limitations of this article with respect to covered claims. As to each claim subject to this paragraph, notwithstanding any other provision of the Insurance Code or the Labor Code and regardless of whether the amount paid by CIGA is adequate to discharge a claim obligation, neither the self-insured employer, group of employers, nor the Self-Insurers' Security Fund, shall have any obligation to pay benefits over and above the specific or aggregate retention, except as provided in this subdivision.

(d) In the event that the benefits paid on the covered claim exceed the per claim limit in paragraph (7) of subdivision (c), the responsibility for paying, adjusting, and defending the claim shall

be returned to the permissibly self-insured employer or group of employers, or the Self-Insurers' Security Fund.

These provisions shall apply to all pending and future insolvencies. For purposes of this paragraph, a pending insolvency is one involving a company that is currently receiving benefits from the guaranty association.

(e) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the department.

(f) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

(g) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by showing that control does not in fact exist.

(h) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

(i) "Ocean marine insurance" includes marine insurance as defined in Section 103, except for inland marine insurance, as well as any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. Those perils and risks insured against include, without limitation, loss, damage, or expense or legal liability of the insured arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft or instrumentality in use in ocean or inland waterways,

including liability of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person.

(j) "Unearned premium" means that portion of a premium as calculated by the liquidator that had not been earned because of the cancellation of the insolvent insurer's policy and is that premium remaining for the unexpired term of the insolvent insurer's policy. "Unearned premium" does not include any amount sought as return of a premium under any policy providing retroactive insurance of a known loss or return of a premium under any retrospectively rated policy or a policy subject to a contingent surcharge or any policy in which the final determination of the premium cost is computed after expiration of the policy and is calculated on the basis of actual loss experience during the policy period.

SEC. 1047. Section 11659 of the Insurance Code is amended to read:

11659. Such approved form of policy, limited pursuant to Section 11657, shall not be otherwise limited except by ~~indorsement~~ *endorsement* thereon in accordance with a form prescribed by the commissioner or in accordance with rules adopted by the commissioner. Such ~~indorsement~~ *endorsement* form shall not be subject to Section 11658. Before prescribing ~~such indorsement~~ *the endorsement* form or adopting ~~such~~ *a* rule, the commissioner shall consult concerning it with the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

SEC. 1048. Section 11698.1 of the Insurance Code is amended to read:

11698.1. From time to time and in any event at or prior to the time of the filing of his or her petition for discharge as receiver, the commissioner shall do the following:

(a) File with the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board an accounting of all trust funds received and used from the proceeds of the deposit required pursuant to Section 11691.

(b) File with the court an accounting of all funds received and used as expenses from the general funds of the insurer.

SEC. 1049. Section 11698.2 of the Insurance Code is amended to read:

11698.2. If the commissioner enters into a reinsurance and assumption agreement as provided in subdivision (a) of Section 11698.01, that agreement shall provide for all of the following:

(a) The reinsurance and assumption of all those obligations by the reinsuring and assuming insurers.

(b) If there is more than one reinsurer the proportion of all those obligations assumed by each reinsurer and a method for the actual processing and payment of those obligations by the reinsurers or their representatives.

(c) The reimbursement of the reinsuring and assuming insurers from the deposit of the insurer in the delinquency proceeding. The provision shall conform with Section 11698.21 and shall not be effective unless approved by the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

(d) The amounts, if any, to be paid the reinsurers from the general funds of the insurer. If the agreement provides that amounts from the general funds of the insurer are to be paid to the reinsurers, those payments shall be approved by the court where the delinquency proceedings are pending.

(e) Any other matters as are necessary and proper to achieve the purposes of the reinsurance and assumption agreement.

SEC. 1050. Section 12693.91 of the Insurance Code is amended to read:

12693.91. (a) The State Department of Health Services, in conjunction with the Managed Risk Medical Insurance Board~~,~~ *and* the County Medical Services Program ~~board, and the Rural Health Policy Council~~ *Governing Board*, may develop and administer up to five demonstration projects in rural areas that are likely to contain a significant level of uninsured children, including seasonal and migratory worker dependents. In addition to any other funds provided pursuant to this section the grants for demonstration projects may include funds pursuant to subdivision (d).

(b) The purpose of the demonstration projects shall be to fund rural collaborative health care networks to alleviate unique problems of access to health care in rural areas.

(c) The State Department of Health Services, in conjunction with the Managed Risk Medical Insurance Board ~~and Rural Health Policy Council~~, shall establish the criteria and standards for eligibility to be used in requests for proposals or requests for application, the application review process, determining the

maximum amount and number of grants to be awarded, preference and priority of projects, and compliance monitoring after receiving comment from the public.

(d) The grants may include funds for purchasing equipment, making capital expenditures, and providing infrastructure, including, but not limited to, salaries and payment of leaseholds. The funds under this subdivision may only be awarded to qualified eligible health care entities as determined by the State Department of Health Services. Title to any equipment or capital improvement purchased or acquired with grant funds shall vest in the grantee for the public good and not the state. Capital expenditures shall not include the acquisition of land. Notwithstanding subdivision (e), this subdivision shall be implemented only when funds are appropriated in the annual Budget Act or another statute to fund the cost of implementing this subdivision.

(e) This section shall only become operative upon federal approval of the state plan or subsequent amendments for the program and approval of federal financial participation.

SEC. 1051. Section 12975.8 of the Insurance Code is amended to read:

12975.8. (a) The Insurance Fund shall, in addition to the funds specified in Section 12975.7, consist of all of the following:

(1) All moneys appropriated to the fund in accordance with law.

(2) All moneys deposited into the State Treasury from any source whatever in payment of lawful fees or reimbursements collected by the Department of Insurance.

(3) The balance remaining in the Insurance Fund at the end of the fiscal year, whether the moneys received are from an appropriation, fees, or from reimbursements for services rendered.

(b) (1) All moneys in the Insurance Fund credited to the Seismic Safety Account shall be subject to an annual appropriation each fiscal year for the purposes specified in Section 12975.9.

(2) All other moneys in the Insurance Fund shall be subject to an annual appropriation each fiscal year for the support of the Department of Insurance.

(3) If the current cash balance in the Seismic Safety Account is not adequate to fund the amount appropriated from it in the annual Budget Act, the Insurance Fund, upon enactment of the Budget Act, shall loan to the account the amount of the appropriation, and one half of this amount shall be transferred to the ~~Seismic Safety~~

~~Commission~~ *Department of General Services*. The second half of the appropriated amount shall be transferred to the ~~Seismic Safety Commission~~ *Department of General Services* from the Seismic Safety Account on or before December 31 of each year. This loan shall be repaid by revenues collected pursuant to Section 12975.9.

(c) Any balance remaining in the Insurance Fund at the end of the fiscal year may be carried forward to the next succeeding fiscal year.

(d) Whenever the balance in the Insurance Fund is not sufficient to cover cashflow in the payment of authorized expenditures, the department may borrow funds as may be necessary from whatever source and under terms and conditions as may be determined by the Director of Finance. Repayment shall be made from revenues received by the department for the same fiscal year for which the loan is made.

SEC. 1052. Section 12975.9 of the Insurance Code is amended to read:

12975.9. (a) The Seismic Safety Account is hereby created as a special account within the Insurance Fund. Money in the account may be appropriated by the Legislature for the purposes of this section to fund the department and the ~~Seismic Safety Commission~~ *Department of General Services*. Assessments imposed on insurers as a prorated percentage of premiums earned on property exposures for both commercial and residential insurance policies relative to the aggregate premiums earned on those exposures by all insurers shall be deposited in the account. The premiums earned for property exposures shall be as stated on lines 4 and 5.1 of the annual statement filed by each insurer pursuant to Section 900. The assessments shall be set annually based on earned premiums reported for the next preceding year by the department and calculated so that the funds in the account shall be sufficient to fund appropriations for support of the ~~Seismic Safety Commission~~ *Department of General Services*, for the actual collection and administrative costs of the department, and for the maintenance of an adequate reserve. The department shall submit the proposed assessments to the ~~Seismic Safety Commission~~ *Department of General Services* for its review ~~at a regularly scheduled meeting of the commission~~.

(b) No assessment shall be levied on insurers with less than one hundred thousand dollars ($100,000) of annual direct premiums

earned on property exposures for both commercial and residential insurance policies. The department may adjust this amount as necessary to minimize costs by excluding assessment amounts that are too small to justify the cost of assessment and collection or if assessment or collection is impractical.

(c) An insurer, in its discretion, may recover this assessment in an equitable fashion from the insured. The insurer, upon receipt of an invoice, shall transmit payment to the department for deposit in the Seismic Safety Account. Any deficiency or excess in the amount collected in relation to the appropriation authority for the ~~commission~~ *Department of General Services* and the department shall be accounted for in the subsequent annual fee calculation. Any balance remaining in the Seismic Safety Account at the end of the fiscal year shall be retained in the account and carried forward to the next fiscal year.

(d) Funds in the Seismic Safety Account shall be distributed, upon appropriation, to the ~~Seismic Safety Commission~~ *Department of General Services* for the support of the ~~commission~~ *Department of General Services* and to the department for the actual administrative costs incurred in collecting the assessments.

(e) The department shall report annually to the Legislature, the ~~Seismic Safety Commission~~ *Department of General Services*, and the Department of Finance on the assessment calculation methodology employed.

(f) This section shall remain in effect until July 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2009, deletes or extends that date.

SEC. 1053. Section 53 of the Labor Code is amended to read:

53. Whenever in Section 1001 or in Part 1 (commencing with Section 11000) of Division 3 of Title 2 of the Government Code "head of the department" or similar designation occurs, the same shall, for the purposes of this code, mean the director, except that in respect to matters which by the express provisions of this code are committed to or retained under the jurisdiction of the Division of Workers' Compensation, the State Compensation Insurance Fund, *or* the Occupational Safety and Health Standards Board, ~~the Occupational Safety and Health Appeals Board, or the Industrial Welfare Commission~~ the designation shall mean the Division of Workers' Compensation, the Administrative Director of the Division of Workers' Compensation, ~~the Workers' Compensation~~

~~Appeals Board,~~ the State Compensation Insurance Fund, *or* the Occupational Safety and Health Standards Board, ~~the Occupational Safety and Health Appeals Board, or the Industrial Welfare Commission,~~ as the case may be.

SEC. 1054. Section 70 of the Labor Code is repealed.

~~70. There is in the Department of Industrial Relations the Industrial Welfare Commission which consists of five members. The members of the commission shall be appointed by the Governor, with the consent of the Senate.~~

SEC. 1055. Section 70.1 of the Labor Code is repealed.

~~70.1. The Industrial Welfare Commission shall be composed of two representatives of organized labor who are members of recognized labor organizations, two representatives of employers, and one representative of the general public. The membership shall include members of both sexes.~~

SEC. 1056. Section 71 of the Labor Code is repealed.

~~71. The term of office of the members of the Industrial Welfare Commission shall be four years and they shall hold office until the appointment and qualification of their successors. The terms of the members of the commission in office at the time this code takes effect shall expire on January 15th of that year which for the particular member has heretofore been determined. Vacancies shall be filled by appointment for the unexpired terms.~~

SEC. 1057. Section 72 of the Labor Code is repealed.

~~72. The members of the commission shall receive one hundred dollars ($100) for each day's actual attendance at meetings and other official business of the commission and shall receive their actual and necessary expenses incurred in the performance of their duties.~~

SEC. 1058. Section 73 of the Labor Code is repealed.

~~73. The Industrial Welfare Commission may employ necessary assistants, officers, experts, and such other employees as it deems necessary. All such personnel of the commission shall be under the supervision of the chairman or an executive officer to whom the chairman delegates such responsibility. All such personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the one exempt deputy or employee allowed by subdivision (e) of Section 4 of Article VII of the California Constitution.~~

SEC. 1059. Section 74 of the Labor Code is amended to read:

74. The Chief of the Division of Labor Standards Enforcement, for the purpose of enforcing ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* orders and provisions of this code, may issue subpoenas to compel the attendance of witnesses and production of books, papers, and records. Obedience to subpoenas issued by the chief of the division shall be enforced by the courts.

The Chief and enforcement deputies of the Division of Labor Standards Enforcement may administer oaths and examine witnesses under oath for the purpose of enforcing ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* orders and provisions of this code.

SEC. 1060. Chapter 3 (commencing with Section 75) of Division 1 of the Labor Code is repealed.

SEC. 1061. Chapter 3 (commencing with Section 75) is added to Division 1 of the Labor Code, to read:

CHAPTER 3. HEALTH AND SAFETY AND WORKERS' COMPENSATION

75. (a) A study shall be undertaken to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years. The study shall be conducted by an independent research organization under the direction of the department. Not later than July 1, 2009, the department shall publish the report of the study on its Internet Web site and shall inform the Legislature and the Governor of the availability of the report.

(b) The study shall include an analysis of the following: the access to capital for workers' compensation insurance from all sources between 1993 and 2003; the availability, source, and risk assumed of reinsurers during this period; the use of deductible policies and their effect on solvency regulation; market activities by insurers and producers that affected market concentration; activities, including financial oversight of insurers, by insurance regulators and the National Association of Insurance Commissioners during this period; the quality of data reporting to the department's designated statistical agent and the accuracy of recommendations provided by the department's designated

statistical agent during this period of time; and underwriting, claims adjusting, and reserving practices of insolvent insurers. The study shall also include a survey of reports of other state agencies analyzing the insurance market response to rising system costs within the applicable time period.

(c) Data reasonably required for the study shall be made available by the California Insurance Guarantee Association, Workers' Compensation Insurance Rating Bureau, third-party administrators for the insolvent insurers, whether prior to or after the insolvency, the State Compensation Insurance Fund, and the Department of Insurance. The department shall also include a survey of reports by the department and other state agencies analyzing the insurance market response to rising system costs within the applicable period of time.

(d) The cost of the study is not to exceed one million dollars ($1,000,000). Confidential information identifiable to any natural person or insurance company held by any agency or organization or association or other person or entity shall be released to researchers upon satisfactory agreement to maintain confidentiality. Information or material that is not subject to subpoena from the agency or organization or association or other person or entity shall not be subject to subpoena from the department or the contracted research organization.

(e) The costs of the study shall be borne one-half by the department from funds derived from the Workers' Compensation Administration Revolving Fund and one-half by insurers from assessments allocated to each insurer based on the insurer's proportionate share of the market as shown by the Market Share Report for Calendar Year 2006 published by the Department of Insurance.

(f) In order to protect individual company trade secrets, this study shall not lead to the disclosure of, either directly or indirectly, the business practices of any company that provides data pursuant to this section. This prohibition shall not apply to insurance companies that have been ordered by a court of competent jurisdiction to be placed in liquidation under the supervision of a liquidator or other authority.

SEC. 1062. Section 96 of the Labor Code is amended to read:

96. The Labor Commissioner and his or her deputies and representatives authorized by him or her in writing shall, upon the

filing of a claim therefor by an employee, or an employee representative authorized in writing by an employee, with the Labor Commissioner, take assignments of:

(a) Wage claims and incidental expense accounts and advances.

(b) Mechanics' and other liens of employees.

(c) Claims based on "stop orders" for wages and on bonds for labor.

(d) Claims for damages for misrepresentations of conditions of employment.

(e) Claims for unreturned bond money of employees.

(f) Claims for penalties for nonpayment of wages.

(g) Claims for the return of workers' tools in the illegal possession of another person.

(h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.

(i) Awards for workers' compensation benefits in which the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board has found that the employer has failed to secure payment of compensation and where the award remains unpaid more than 10 days after having become final.

(j) Claims for loss of wages as the result of discharge from employment for the garnishment of wages.

(k) Claims for loss of wages as the result of demotion, suspension, or discharge from employment for lawful conduct occurring during nonworking hours away from the employer's premises.

SEC. 1063. 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~~ *Labor and Workforce Development Agency*, 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, 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, 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, if it can be shown that proper service was made on the defendant or his or her agent.

SEC. 1064. Section 98.3 of the Labor Code is amended to read:

98.3. (a) The Labor Commissioner may prosecute all actions for the collection of wages, penalties, and demands of persons who in the judgment of the Labor Commissioner are financially unable to employ counsel and the Labor Commissioner believes have claims which are valid and enforceable.

The Labor Commissioner may also prosecute actions for the return of worker's tools which are in the illegal possession of another person.

(b) The Labor Commissioner may prosecute action for the collection of wages and other moneys payable to employees or to the state arising out of an employment relationship or order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*.

(c) The Labor Commissioner may also prosecute actions for wages or other monetary benefits that are due the Industrial Relations Unpaid Wage Fund.

SEC. 1065. Section 110 of the Labor Code is amended to read:

110. As used in this chapter:

(a) "Appeals board" means the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board. ~~The title of a member of the board is "commissioner."~~

(b) "Administrative director" means the Administrative Director of the Division of Workers' Compensation.

(c) "Division" means the Division of Workers' Compensation.

(d) "Medical director" means the physician appointed by the administrative director pursuant to Section 122.

(e) "Qualified medical evaluator" means physicians appointed by the administrative director pursuant to Section 139.2.

(f) "Court administrator" means the administrator of the workers' compensation adjudicatory process at the trial level.

SEC. 1066. Section 111 of the Labor Code is amended to read:

111. (a) ~~The Workers' Compensation Appeals Board, consisting of seven members, shall exercise all judicial powers vested in it under this code. In all other respects, the~~ *The* Division of Workers' Compensation is under the control of the administrative director and, except as to those duties, powers, jurisdiction, responsibilities, and purposes as are specifically vested in the appeals board, the administrative director shall exercise the powers of the head of a department within the meaning of Article 1 (commencing with Section 11150) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code with respect to the Division of Workers' Compensation which shall include supervision of, and responsibility for, personnel, and the coordination of the work of the division, except personnel of the appeals board.

(b) The administrative director shall prepare and submit, on March 1 of each year, a report to the Governor and the Legislature covering the activities of the division during the prior year. The report shall include recommendations for improvement and the need, if any, for legislation to enhance the delivery of compensation to injured workers. The report shall include data on penalties imposed on employers or insurers due to delays in compensation or notices, or both, by category of penalty imposed.

SEC. 1067. Section 112 of the Labor Code is repealed.

~~112. The members of the appeals board shall be appointed by the Governor with the advice and consent of the Senate. The term of office of the members appointed prior to January 1, 1990, shall be four years, and the term of office of members appointed on or after January 1, 1990, shall be six years and they shall hold office until the appointment and qualification of their successors.~~

~~Five of the members of the appeals board shall be experienced attorneys at law admitted to practice in the State of California. The other two members need not be attorneys at law. All members shall be selected with due consideration of their judicial temperament and abilities. Each member shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.~~

SEC. 1068. Section 113 of the Labor Code is repealed.

~~113. The Governor shall designate the chairman of the appeals board from the membership of the appeals board. The person so designated shall hold the office of chairman at the pleasure of the Governor.~~

~~The chairman may designate in writing one of the other members of the appeals board to act as chairman during such time as he may be absent from the state on official business, on vacation, or absent due to illness.~~

SEC. 1069. Section 115 of the Labor Code is repealed.

~~115. Actions of the appeals board shall be taken by decision of a majority of the appeals board except as otherwise expressly provided.~~

~~The chairman shall assign pending cases in which reconsideration is sought to any three members thereof for hearing, consideration and decision. Assignments by the chairman of members to such cases shall be rotated on a case-by-case basis with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continued composition of members. Any such case assigned to any three members in which the finding, order, decision or award is made and filed by any two or more of such members shall be the action of the appeals board unless reconsideration is had in accordance with the provisions of Article 1 (commencing with Section 5900), Chapter 7, Part 4, Division 4 of this code. Any case assigned to three members shall be heard and decided only by them, unless the matter has been~~

~~reassigned by the chairman on a majority vote of the appeals board to the appeals board as a whole in order to achieve uniformity of decision, or in cases presenting novel issues.~~

SEC. 1070. Section 116 of the Labor Code is repealed.

~~116. The seal of the appeals board bearing the inscription "Workers' Compensation Appeals Board, Seal" shall be affixed to all writs and authentications of copies of records and to such other instruments as the appeals board directs.~~

SEC. 1071. Section 127.6 of the Labor Code is amended to read:

127.6. (a) The administrative director shall, in consultation with the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency*, other state agencies, and researchers and research institutions with expertise in health care delivery and occupational health care service, conduct a study of medical treatment provided to workers who have sustained industrial injuries and illnesses. The study shall focus on, but not be limited to, all of the following:

(1) Factors contributing to the rising costs and utilization of medical treatment and case management in the workers' compensation system.

(2) An evaluation of case management procedures that contribute to or achieve early and sustained return to work within the employee's temporary and permanent work restrictions.

(3) Performance measures for medical services that reflect patient outcomes.

(4) Physician utilization, quality of care, and outcome measurement data.

(5) Patient satisfaction.

(b) The administrative director shall begin the study on or before July 1, 2003, and shall report and make recommendations to the Legislature based on the results of the study on or before July 1, 2004.

(c) In implementing this section, the administrative director shall ensure the confidentiality and protection of patient-specific data.

SEC. 1072. Section 138.7 of the Labor Code is amended to read:

138.7. (a) Except as expressly permitted in subdivision (b), a person or public or private entity not a party to a claim for workers'

compensation benefits may not obtain individually identifiable information obtained or maintained by the division on that claim. For purposes of this section, "individually identifiable information" means any data concerning an injury or claim that is linked to a uniquely identifiable employee, employer, claims administrator, or any other person or entity.

(b) (1) The administrative director, or a statistical agent designated by the administrative director, may use individually identifiable information for purposes of creating and maintaining the workers' compensation information system as specified in Section 138.6.

(2) The State Department of *Public* Health ~~Services~~ may use individually identifiable information for purposes of establishing and maintaining a program on occupational health and occupational disease prevention as specified in Section 105175 of the Health and Safety Code.

(3) (A) Individually identifiable information may be used by the Division of Workers' Compensation, the Division of Occupational Safety and Health, and the Division of Labor Statistics and Research as necessary to carry out their duties. The administrative director shall adopt regulations governing the access to the information described in this subdivision by these divisions. Any regulations adopted pursuant to this subdivision shall set forth the specific uses for which this information may be obtained.

(B) Individually identifiable information maintained in the workers' compensation information system and the Division of Workers' Compensation may be used by researchers employed by or under contract to the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency* as necessary to carry out the ~~commission's~~ *agency's* research. The administrative director shall adopt regulations governing the access to the information described in this subdivision by ~~commission~~ *agency* researchers. These regulations shall set forth the specific uses for which this information may be obtained and include provisions guaranteeing the confidentiality of individually identifiable information. Individually identifiable information obtained under this subdivision shall not be disclosed to ~~commission members~~ *agency officers*. No individually identifiable information obtained by researchers under contract to the ~~commission~~ *agency* pursuant to this subparagraph may be

disclosed to any other person or entity, public or private, for a use other than that research project for which the information was obtained. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

(4) The administrative director shall adopt regulations allowing reasonable access to individually identifiable information by other persons or public or private entities for the purpose of bona fide statistical research. This research shall not divulge individually identifiable information concerning a particular employee, employer, claims administrator, or any other person or entity. The regulations adopted pursuant to this paragraph shall include provisions guaranteeing the confidentiality of individually identifiable information. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) This section shall not operate to exempt from disclosure any information that is considered to be 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) contained in an individual's file once an application for adjudication has been filed pursuant to Section 5501.5.

However, individually identifiable information shall not be provided to any person or public or private entity who is not a party to the claim unless that person identifies himself or herself or that public or private entity identifies itself and states the reason for making the request. The administrative director may require the person or public or private entity making the request to produce information to verify that the name and address of the requester is valid and correct. If the purpose of the request is related to preemployment screening, the administrative director shall notify the person about whom the information is requested that the information was provided and shall include the following in 12-point type:

"IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO DISCRIMINATE AGAINST A JOB APPLICANT

BECAUSE THE APPLICANT HAS FILED A CLAIM FOR WORKERS' COMPENSATION BENEFITS."

Any residence address is confidential and shall not be disclosed to any person or public or private entity except to a party to the claim, a law enforcement agency, an office of a district attorney, any person for a journalistic purpose, or other governmental agency.

Nothing in this paragraph shall be construed to prohibit the use of individually identifiable information for purposes of identifying bona fide lien claimants.

(c) Except as provided in subdivision (b), individually identifiable information obtained by the division is privileged and is not subject to subpoena in a civil proceeding unless, after reasonable notice to the division and a hearing, a court determines that the public interest and the intent of this section will not be jeopardized by disclosure of the information. This section shall not operate to restrict access to information by any law enforcement agency or district attorney's office or to limit admissibility of that information in a criminal proceeding.

(d) It shall be unlawful for any person who has received individually identifiable information from the division pursuant to this section to provide that information to any person who is not entitled to it under this section.

SEC. 1073. Section 139.2 of the Labor Code is amended to read:

139.2. (a) The administrative director shall appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues. The appointments shall be for two-year terms.

(b) The administrative director shall appoint or reappoint as a qualified medical evaluator a physician, as defined in Section 3209.3, who is licensed to practice in this state and who demonstrates that he or she meets the requirements in paragraphs (1), (2), (6), and (7), and, if the physician is a medical doctor, doctor of osteopathy, doctor of chiropractic, or a psychologist, that he or she also meets the applicable requirements in paragraph (3), (4), or (5).

(1) Prior to his or her appointment as a qualified medical evaluator, passes an examination written and administered by the administrative director for the purpose of demonstrating

competence in evaluating medical-legal issues in the workers' compensation system. Physicians shall not be required to pass an additional examination as a condition of reappointment. A physician seeking appointment as a qualified medical evaluator on or after January 1, 2001, shall also complete prior to appointment, a course on disability evaluation report writing approved by the administrative director. The administrative director shall specify the curriculum to be covered by disability evaluation report writing courses, which shall include, but is not limited to, 12 or more hours of instruction.

(2) Devotes at least one-third of total practice time to providing direct medical treatment, or has served as an agreed medical evaluator on eight or more occasions in the 12 months prior to applying to be appointed as a qualified medical evaluator.

(3) Is a medical doctor or doctor of osteopathy and meets one of the following requirements:

(A) Is board certified in a specialty by a board recognized by the administrative director and either the Medical Board of California or the Osteopathic Medical Board of California.

(B) Has successfully completed a residency training program accredited by the American College of Graduate Medical Education or the osteopathic equivalent.

(C) Was an active qualified medical evaluator on June 30, 2000.

(D) Has qualifications that the administrative director and either the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, both deem to be equivalent to board certification in a specialty.

(4) Is a doctor of chiropractic and meets either of the following requirements:

(A) Has completed a chiropractic postgraduate specialty program of a minimum of 300 hours taught by a school or college recognized by the administrative director, the Board of Chiropractic Examiners and the Council on Chiropractic Education.

(B) Has been certified in California workers' compensation evaluation by a provider recognized by the administrative director. The certification program shall include instruction on disability evaluation report writing that meets the standards set forth in paragraph (1).

(5) Is a psychologist and meets one of the following requirements:

(A) Is board certified in clinical psychology by a board recognized by the administrative director.

(B) Holds a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, from a university or professional school recognized by the administrative director and has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(C) Has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders, and has served as an agreed medical evaluator on eight or more occasions prior to January 1, 1990.

(6) Does not have a conflict of interest as determined under the regulations adopted by the administrative director pursuant to subdivision (o).

(7) Meets any additional medical or professional standards adopted pursuant to paragraph (6) of subdivision (j).

(c) The administrative director shall adopt standards for appointment of physicians who are retired or who hold teaching positions who are exceptionally well qualified to serve as a qualified medical evaluator even though they do not otherwise qualify under paragraph (2) of subdivision (b). In no event shall a physician whose full-time practice is limited to the forensic evaluation of disability be appointed as a qualified medical evaluator under this subdivision.

(d) The qualified medical evaluator, upon request, shall be reappointed if he or she meets the qualifications of subdivision (b) and meets all of the following criteria:

(1) Is in compliance with all applicable regulations and evaluation guidelines adopted by the administrative director.

(2) Has not had more than five of his or her evaluations that were considered by a workers' compensation administrative law judge at a contested hearing rejected by the workers' compensation administrative law judge or the appeals board pursuant to this section during the most recent two-year period during which the physician served as a qualified medical evaluator. If the workers' compensation administrative law judge or the appeals board rejects the qualified medical evaluator's report on the basis that it fails to meet the minimum standards for those reports established by the

administrative director or the appeals board, the workers' compensation administrative law judge or the appeals board, as the case may be, shall make a specific finding to that effect, and shall give notice to the medical evaluator and to the administrative director. Any rejection shall not be counted as one of the five qualifying rejections until the specific finding has become final and time for appeal has expired.

(3) Has completed within the previous 24 months at least 12 hours of continuing education in impairment evaluation or workers' compensation-related medical dispute evaluation approved by the administrative director.

(4) Has not been terminated, suspended, placed on probation, or otherwise disciplined by the administrative director during his or her most recent term as a qualified medical evaluator.

If the evaluator does not meet any one of these criteria, the administrative director may in his or her discretion reappoint or deny reappointment according to regulations adopted by the administrative director. In no event may a physician who does not currently meet the requirements for initial appointment or who has been terminated under subdivision (e) because his or her license has been revoked or terminated by the licensing authority be reappointed.

(e) The administrative director may, in his or her discretion, suspend or terminate a qualified medical evaluator during his or her term of appointment without a hearing as provided under subdivision (k) or (*l*) whenever either of the following conditions occurs:

(1) The evaluator's license to practice in California has been suspended by the relevant licensing authority so as to preclude practice, or has been revoked or terminated by the licensing authority.

(2) The evaluator has failed to timely pay the fee required by the administrative director pursuant to subdivision (n).

(f) The administrative director shall furnish a physician, upon request, with a written statement of its reasons for termination of, or for denying appointment or reappointment as, a qualified medical evaluator. Upon receipt of a specific response to the statement of reasons, the administrative director shall review his or her decision not to appoint or reappoint the physician or to

terminate the physician and shall notify the physician of its final decision within 60 days after receipt of the physician's response.

(g) The administrative director shall establish agreements with qualified medical evaluators to assure the expeditious evaluation of cases assigned to them for comprehensive medical evaluations.

(h) (1) When requested by an employee or employer pursuant to Section 4062.1, the medical director appointed pursuant to Section 122 shall assign three-member panels of qualified medical evaluators within five working days after receiving a request for a panel. If a panel is not assigned within 15 working days, the employee shall have the right to obtain a medical evaluation from any qualified medical evaluator of his or her choice. The medical director shall use a random selection method for assigning panels of qualified medical evaluators. The medical director shall select evaluators who are specialists of the type requested by the employee. The medical director shall advise the employee that he or she should consult with his or her treating physician prior to deciding which type of specialist to request.

(2) The administrative director shall promulgate a form that shall notify the employee of the physicians selected for his or her panel after a request has been made pursuant to Section 4062.1 or 4062.2. The form shall include, for each physician on the panel, the physician's name, address, telephone number, specialty, number of years in practice, and a brief description of his or her education and training, and shall advise the employee that he or she is entitled to receive transportation expenses and temporary disability for each day necessary for the examination. The form shall also state in a clear and conspicuous location and type: "You have the right to consult with an information and assistance officer at no cost to you prior to selecting the doctor to prepare your evaluation, or you may consult with an attorney. If your claim eventually goes to court, the workers' compensation administrative law judge will consider the evaluation prepared by the doctor you select to decide your claim."

(3) When compiling the list of evaluators from which to select randomly, the medical director shall include all qualified medical evaluators who meet all of the following criteria:

(A) He or she does not have a conflict of interest in the case, as defined by regulations adopted pursuant to subdivision (o).

(B) He or she is certified by the administrative director to evaluate in an appropriate specialty and at locations within the general geographic area of the employee's residence.

(C) He or she has not been suspended or terminated as a qualified medical evaluator for failure to pay the fee required by the administrative director pursuant to subdivision (n) or for any other reason.

(4) When the medical director determines that an employee has requested an evaluation by a type of specialist that is appropriate for the employee's injury, but there are not enough qualified medical evaluators of that type within the general geographic area of the employee's residence to establish a three-member panel, the medical director shall include sufficient qualified medical evaluators from other geographic areas and the employer shall pay all necessary travel costs incurred in the event the employee selects an evaluator from another geographic area.

(i) The medical director appointed pursuant to Section 122 shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations.

(j) After public hearing pursuant to Section 5307.3, the administrative director shall adopt regulations concerning the following issues:

(1) (A) Standards governing the timeframes within which medical evaluations shall be prepared and submitted by agreed and qualified medical evaluators. Except as provided in this subdivision, the timeframe for initial medical evaluations to be prepared and submitted shall be no more than 30 days after the evaluator has seen the employee or otherwise commenced the medical evaluation procedure. The administrative director shall

develop regulations governing the provision of extensions of the 30-day period in both of the following cases:

(i) When the evaluator has not received test results or consulting physician's evaluations in time to meet the 30-day deadline.

(ii) To extend the 30-day period by not more than 15 days when the failure to meet the 30-day deadline was for good cause.

(B) For purposes of subparagraph (A), "good cause" means any of the following:

(i) Medical emergencies of the evaluator or evaluator's family.

(ii) Death in the evaluator's family.

(iii) Natural disasters or other community catastrophes that interrupt the operation of the evaluator's business.

(C) The administrative director shall develop timeframes governing availability of qualified medical evaluators for unrepresented employees under Sections 4061 and 4062. These timeframes shall give the employee the right to the addition of a new evaluator to his or her panel, selected at random, for each evaluator not available to see the employee within a specified period of time, but shall also permit the employee to waive this right for a specified period of time thereafter.

(2) Procedures to be followed by all physicians in evaluating the existence and extent of permanent impairment and limitations resulting from an injury in a manner consistent with Section 4660.

(3) Procedures governing the determination of any disputed medical treatment issues in a manner consistent with Section 5307.27.

(4) Procedures to be used in determining the compensability of psychiatric injury. The procedures shall be in accordance with Section 3208.3 and shall require that the diagnosis of a mental disorder be expressed using the terminology and criteria of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.

(5) Guidelines for the range of time normally required to perform the following:

(A) A medical-legal evaluation that has not been defined and valued pursuant to Section 5307.6. The guidelines shall establish minimum times for patient contact in the conduct of the

evaluations, and shall be consistent with regulations adopted pursuant to Section 5307.6.

(B) Any treatment procedures that have not been defined and valued pursuant to Section 5307.1.

(C) Any other evaluation procedure requested by the Insurance Commissioner, or deemed appropriate by the administrative director.

(6) Any additional medical or professional standards that a medical evaluator shall meet as a condition of appointment, reappointment, or maintenance in the status of a medical evaluator.

(k) Except as provided in this subdivision, the administrative director may, in his or her discretion, suspend or terminate the privilege of a physician to serve as a qualified medical evaluator if the administrative director, after hearing pursuant to subdivision (*l*), determines, based on substantial evidence, that a qualified medical evaluator:

(1) Has violated any material statutory or administrative duty.

(2) Has failed to follow the medical procedures or qualifications established pursuant to paragraph (2), (3), (4), or (5) of subdivision (j).

(3) Has failed to comply with the timeframe standards established pursuant to subdivision (j).

(4) Has failed to meet the requirements of subdivision (b) or (c).

(5) Has prepared medical-legal evaluations that fail to meet the minimum standards for those reports established by the administrative director or the appeals board.

(6) Has made material misrepresentations or false statements in an application for appointment or reappointment as a qualified medical evaluator.

No hearing shall be required prior to the suspension or termination of a physician's privilege to serve as a qualified medical evaluator when the physician has done either of the following:

(A) Failed to timely pay the fee required pursuant to subdivision (n).

(B) Had his or her license to practice in California suspended by the relevant licensing authority so as to preclude practice, or had the license revoked or terminated by the licensing authority.

(*l*) The administrative director shall cite the qualified medical evaluator for a violation listed in subdivision (k) and shall set a hearing on the alleged violation within 30 days of service of the citation on the qualified medical evaluator. In addition to the authority to terminate or suspend the qualified medical evaluator upon finding a violation listed in subdivision (k), the administrative director may, in his or her discretion, place a qualified medical evaluator on probation subject to appropriate conditions, including ordering continuing education or training. The administrative director shall report to the appropriate licensing board the name of any qualified medical evaluator who is disciplined pursuant to this subdivision.

(m) The administrative director shall terminate from the list of medical evaluators any physician where licensure has been terminated by the relevant licensing board, or who has been convicted of a misdemeanor or felony related to the conduct of his or her medical practice, or of a crime of moral turpitude. The administrative director shall suspend or terminate as a medical evaluator any physician who has been suspended or placed on probation by the relevant licensing board. If a physician is suspended or terminated as a qualified medical evaluator under this subdivision, a report prepared by the physician that is not complete, signed, and furnished to one or more of the parties prior to the date of conviction or action of the licensing board, whichever is earlier, shall not be admissible in any proceeding before the appeals board nor shall there be any liability for payment for the report and any expense incurred by the physician in connection with the report.

(n) Each qualified medical evaluator shall pay a fee, as determined by the administrative director, for appointment or reappointment. These fees shall be based on a sliding scale as established by the administrative director. All revenues from fees paid under this subdivision shall be deposited into the Workers' Compensation Administration Revolving Fund and are available for expenditure upon appropriation by the Legislature, and shall not be used by any other department or agency or for any purpose other than administration of the programs the Division of Workers' Compensation related to the provision of medical treatment to injured employees.

(o) An evaluator may not request or accept any compensation or other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under this code. The administrative director, after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency*, shall adopt regulations to implement this subdivision.

SEC. 1074. Section 142.3 of the Labor Code is amended to read:

142.3. (a) (1) The board, by an affirmative vote of at least four members, may adopt, amend or repeal occupational safety and health standards and orders. The board shall be the only agency in the state authorized to adopt occupational safety and health standards.

(2) The board shall adopt standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91-596) within six months of the promulgation date of the federal standards and which, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce.

(3) No standard or amendment to any standard adopted by the board that is substantially the same as a federal standard shall be subject to Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of this subdivision, "substantially the same" means identical to the federal standard with the exception of editorial and format differences needed to conform to other state laws and standards.

(4) If a federal standard is promulgated and no state standard that is at least as effective as the federal standard is adopted by the board within six months of the date of promulgation of the federal standard, the following provisions shall apply unless adoption of the state standard is imminent:

(A) If there is no existing state standard covering the same issues, the federal standard shall be deemed to be a standard adopted by the board and enforceable by the division pursuant to Section 6317. This standard shall not be subject to Article 5 (commencing with Section 11346) and Article 6 (commencing

with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(B) If a state standard is in effect at the time a federal standard is promulgated covering the same issue or issues, the board may adopt the federal standard, or a portion thereof, as a standard enforceable by the division pursuant to Section 6317; provided, however, if a federal standard or portion thereof is adopted which replaces an existing state standard or portion thereof, the federal standard shall be as effective as the state standard or portion thereof. No adoption of or amendment to any federal standard, or portion thereof shall be subject to Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(C) Any state standard adopted pursuant to subparagraph (A) or (B) shall become effective at the time the standard is filed with the Secretary of State, unless otherwise provided, but shall not take effect before the effective date of the equivalent federal standard and shall remain in effect for six months unless readopted by the board for an additional six months or superseded by a standard adopted by the board pursuant to paragraph (2) of subdivision (a).

(D) Any standard adopted pursuant to subparagraph (A), (B), or (C), shall be published in Title 8 of the California Code of Regulations in a manner similar to any other standards adopted pursuant to paragraphs (1) and (2) of subdivision (a) of this section.

(b) The ~~State Building Standards Commission~~ *Department of General Services* shall codify and publish in a semiannual supplement to the California Building Standards Code, or in a more frequent supplement if required by federal law, all occupational safety and health standards that would otherwise meet the definition of a building standard described in Section 18909 of the Health and Safety Code adopted by the board in the State Building Standards Code without reimbursement from the board. These occupational safety and health standards may also be published by the Occupational Safety and Health Standards Board in other provisions in Title 8 of the California Code of Regulations prior to publication in the California Building Standards Code if that other publication includes an appropriate

identification of occupational safety and health standards contained in the other publication.

(c) Any occupational safety or health standard or order promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure. Where appropriate, these standards or orders shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with these hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals and in a manner as may be necessary for the protection of employees. In addition, where appropriate, the occupational safety or health standard or order shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his or her cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employee is adversely affected by this exposure.

(d) The results of these examinations or tests shall be furnished only to the Division of Occupational Safety and Health, the State Department of Health *Care* Services, any other authorized state agency, the employer, the employee, and, at the request of the employee, to his or her physician.

SEC. 1075. Section 148 of the Labor Code is amended to read:

148. (a) There is in the ~~Department of Industrial Relations the Occupational Safety and Health~~ *Labor and Workforce Development Agency, the Employment and Benefits* Appeals Board, consisting of three members appointed by the Governor, subject to the approval of the Senate. One member shall be from the field of management, one shall be from the field of labor and one member shall be from the general public. The public member shall be chosen from other than the fields of management and labor. Each member of the appeals board shall devote his *or her* full time to the performance of his *or her* duties.

(b) The ~~chairman~~ *chairperson* and each member of the appeals board shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The Governor shall designate the ~~chairman~~ *chairperson* of the appeals board from the membership of the appeals board. The person so designated shall hold the office of ~~chairman~~ *chairperson* at the pleasure of the Governor. The ~~chairman~~ *chairperson* shall designate a member of the appeals board to act as ~~chairman~~ *chairperson* in his *or her* absence.

SEC. 1076. Section 148.01 is added to the Labor Code, to read:

148.01. (a) The Employment and Benefits Appeals Board succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Occupational Safety and Health Appeals Board, the California Unemployment Insurance Appeals Board, and the Workers' Compensation Appeals Board.

(b) All officers and employees of the Occupational Safety and Health Appeals Board, the Unemployment Insurance Appeals Board, and the Workers' Compensation Appeals Board, who are serving in the state civil service, other than as temporary employees, shall be transferred to the Employment and Benefits Appeals Board. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Employment and Benefits Appeals Board, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(c) The Employment and Benefits Appeals Board shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the Occupational Safety and Health Appeals Board, the Unemployment Insurance Appeals Board, or the Workers' Compensation Appeals Board.

(d) (1) Any regulation or other action adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this subdivision shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(2) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this subdivision, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this subdivision.

(e) Any further reference in this chapter to the appeals board shall refer to the Employment and Benefits Appeals Board, except as indicated.

SEC. 1077. Section 148.1 of the Labor Code is amended to read:

148.1. Each member of the appeals board shall serve ~~for a term of four years~~ *at the pleasure of the Governor* and until his *or her* successor is appointed and qualifies. ~~The terms of the first three members appointed to the appeals board shall expire on the second, third, and fourth January 15th following the date of the appointment of the first appointed member. A vacancy shall be filled by the Governor, subject to the approval of the Senate by appointment for the unexpired term.~~

SEC. 1078. Section 148.2 of the Labor Code is amended to read:

148.2. The appeals board may employ necessary assistants, officers, experts, hearing officers, and such other employees as it deems necessary. All ~~such~~ personnel of the appeals board shall be under the supervision of the ~~chairman~~ *chairperson* of the appeals board or an executive officer to whom the ~~chairman~~ *chairperson* delegates ~~such~~ responsibility. All ~~such~~ personnel shall be appointed pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except for the one exempt deputy or employee allowed by subdivision (e) of Section 4 of Article ~~XXIV~~ *VII* of the California Constitution. The salaries of the hearing officers shall be fixed by the State Personnel Board at a rate comparable to that of other referees or hearing officers in state service whose duties and responsibilities are comparable, without regard to whether ~~such~~ other positions have membership in the State Bar of California as a prerequisite to appointment.

SEC. 1079. Section 148.6 of the Labor Code is amended to read:

148.6. A decision of the appeals board is binding on the director and the Division of Occupational Safety and Health *and the Employment Development Department* with respect to the parties involved in the particular appeal. The director shall have the right to seek judicial review of an appeals board decision irrespective of whether or not he or she appeared or participated in the appeal to the appeals board or its hearing officer.

SEC. 1080. Section 204.3 of the Labor Code is amended to read:

204.3. (a) An employee may receive, in lieu of overtime compensation, compensating time off at a rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required by law. If an hour of employment would otherwise be compensable at a rate of more than one and one-half times the employee's regular rate of compensation, then the employee may receive compensating time off commensurate with the higher rate.

(b) An employer may provide compensating time off under subdivision (a) if the following four conditions are met:

(1) The compensating time off is provided pursuant to applicable provisions of a collective bargaining agreement, memorandum of understanding, or other written agreement between the employer and the duly authorized representative of the employer's employees; or, in the case of employees not covered by the aforementioned agreement or memorandum of understanding, pursuant to a written agreement entered into between the employer and employee before the performance of the work.

(2) The employee has not accrued compensating time in excess of the limit prescribed by subdivision (c).

(3) The employee has requested, in writing, compensating time off in lieu of overtime compensation.

(4) The employee is regularly scheduled to work no less than 40 hours in a workweek.

(c) (1) An employee may not accrue more than 240 hours of compensating time off. Any employee who has accrued 240 hours of compensating time off shall, for any additional overtime hours of work, be paid overtime compensation.

(2) If compensation is paid to an employee for accrued compensating time off, the compensation shall be paid at the

regular rate earned by the employee at the time the employee receives payment.

(d) An employee who has accrued compensating time off authorized to be provided under subdivision (a) shall, upon termination of employment, be paid for the unused compensating time at a rate of compensation not less than the average regular rate received by the employee during the last three years of the employee's employment, or the final regular rate received by the employee, whichever is higher.

(e) (1) An employee who has accrued compensating time off authorized to be provided under subdivision (a), and who has requested the use of that compensating time, shall be permitted by the employee's employer to use the time within a reasonable period after making the request, if the use of the compensating time does not unduly disrupt the operations of the employer.

(2) Upon the request of an employee, the employer shall pay overtime compensation in cash in lieu of compensating time off for any compensating time off that has accrued for at least two pay periods.

(3) For purposes of determining whether a request to use compensating time has been granted within a reasonable period, the following factors shall be relevant:

(A) The normal schedule of work.

(B) Anticipated peak workloads based on past experience.

(C) Emergency requirements for staff and services.

(D) The availability of qualified substitute staff.

(f) Every employer shall keep records that accurately reflect compensating time earned and used.

(g) For purposes of this section, the terms "compensating time" and "compensating time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.

(h) This section shall not apply to any employee exempt from the overtime provisions of the California wage orders.

(i) This section shall not apply to any employee who is subject to the following wage orders of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*: Orders No. 8-80, 13-80, and 14-80 (affecting industries handling products after

harvest, industries preparing agricultural products for market on the farm, and agricultural occupations), Order No. 3-80 (affecting the canning, freezing, and preserving industry), Orders No. 5-89 and 10-89 (affecting the public housekeeping and amusement and recreation industries), and Order No. 1-89 (affecting the manufacturing industry).

SEC. 1081. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period ~~for which~~ *that* the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy the records pertaining to that current or former

employee, upon reasonable request to the employer. The employer may take reasonable steps to ~~assure~~ *ensure* the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000), and is entitled to an award of costs and reasonable attorney's fees.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar ($750) penalty from the employer.

(g) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(h) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other

governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall, by January 1, 2008, use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

SEC. 1082. Section 226.7 of the Labor Code is amended to read:

226.7. (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

SEC. 1083. Section 350 of the Labor Code is amended to read:

350. As used in this article, unless the context indicates otherwise:

(a) "Employer" means every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether the person is the owner of the business or is operating on a concessionaire or other basis.

(b) "Employee" means every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay, whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation, and whether the service is rendered on a commission, concessionaire, or other basis.

(c) "Employing" includes hiring, or in any way contracting for, the services of an employee.

(d) "Agent" means every person other than the employer having the authority to hire or discharge any employee or supervise, direct, or control the acts of employees.

(e) "Gratuity" includes any tip, gratuity, money, or part thereof that has been paid or given to or left for an employee by a patron of a business over and above the actual amount due the business for services rendered or for goods, food, drink, or articles sold or served to the patron. Any amounts paid directly by a patron to a dancer employed by an employer subject to ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* Order No. 5 or 10 shall be deemed a gratuity.

(f) "Business" means any business establishment or enterprise, regardless of where conducted.

SEC. 1084. Section 511 of the Labor Code is amended to read:

511. (a) Upon the proposal of an employer, the employees of an employer may adopt a regularly scheduled alternative workweek that authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation pursuant to this section. A proposal to adopt an alternative workweek schedule shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees in a work unit. The regularly scheduled alternative workweek proposed by an employer for adoption by employees may be a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose.

(b) An affected employee working longer than eight hours but not more than 12 hours in a day pursuant to an alternative workweek schedule adopted pursuant to this section shall be paid an overtime rate of compensation of no less than one and one-half times the regular rate of pay of the employee for any work in excess of the regularly scheduled hours established by the alternative workweek agreement and for any work in excess of 40 hours per week. An overtime rate of compensation of no less than double the regular rate of pay of the employee shall be paid for any work in excess of 12 hours per day and for any work in excess of eight hours on those days worked beyond the regularly scheduled workdays established by the alternative workweek agreement. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

(c) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal, or nullification of an alternative workweek schedule.

(d) An employer shall make a reasonable effort to find a work schedule not to exceed eight hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative schedule hours established as the result of that election. An employer shall be permitted to provide a work schedule not to exceed eight hours in a workday to accommodate any employee who was hired after the date of the election and who is unable to work the alternative schedule established as the result of that election. An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision ~~(j)~~ *(l)* of Section 12940 of the Government Code.

(e) The results of any election conducted pursuant to this section shall be reported by an employer to the Division of Labor Statistics and Research within 30 days after the results are final.

(f) Any type of alternative workweek schedule that is authorized by this code and that was in effect on January 1, 2000, may be repealed by the affected employees pursuant to this section. Any alternative workweek schedule that was adopted pursuant to Wage Order Numbers 1, 4, 5, 7, or 9 of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* is null and void, except for an alternative workweek providing for a regular schedule of no more than 10 hours' work in a workday that was adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to wage orders of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* in effect prior to 1998. This subdivision does not apply to exemptions authorized pursuant to Section 515.

(g) Notwithstanding subdivision (f), an alternative workweek schedule in the health care industry adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to Wage Orders 4 and 5 in effect prior to 1998 that provided for workdays exceeding 10 hours but not exceeding 12 hours in a day without the payment of overtime compensation shall be valid until July 1, 2000. An employer in the health care industry shall make a

reasonable effort to accommodate any employee in the health care industry who is unable to work the alternative schedule established as the result of a valid election held in accordance with provisions of Wage Orders 4 or 5 that were in effect prior to 1998.

(h) Notwithstanding subdivision (f), if an employee is voluntarily working an alternative workweek schedule providing for a regular work schedule of not more than 10 hours work in a workday as of July 1, 1999, an employee may continue to work that alternative workweek schedule without the entitlement of the payment of daily overtime compensation for the hours provided in that schedule if the employer approves a written request of the employee to work that schedule.

SEC. 1085. Section 512 of the Labor Code is amended to read:

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* may adopt a working condition order permitting a meal period to commence after six hours of work if the ~~commission~~ *secretary* determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to ~~an Industrial Welfare Commission~~ *a Labor and Workforce Development Agency* wage order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five seven-hour days, payment of 1 and ½ the regular rate of pay for time worked in excess of seven hours per day, and a rest period of not less than 10 minutes every two hours.

(d) If an employee in the motion picture industry or the broadcasting industry, as those industries are defined in ~~Industrial Welfare Commission Wage~~ *Labor and Workforce Development Agency* Orders 11 and 12, is covered by a valid collective bargaining agreement that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period required by the agreement, then the terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to meal periods of subdivision (a) of this section, Section 226.7, and ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* Wage Orders 11 and 12.

SEC. 1086. Section 512.5 of the Labor Code is amended to read:

512.5. (a) Notwithstanding any provision of this chapter, if the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* adopts or amends an order that applies to an employee of a public agency who operates a commercial motor vehicle, it may exempt that employee from the application of the provisions of that order which relate to meal periods or rest periods, consistent with the health and welfare of that employee, if he or she is covered by a valid collective bargaining agreement.

(b) "Commercial motor vehicle" for the purposes of this section has the same meaning as provided in subdivision (b) of Section 15210 of the Vehicle Code.

(c) "Public agency" for the purposes of this section means the state and any political subdivision of the state, including any city, county, city and county, or special district.

SEC. 1087. Section 515 of the Labor Code is amended to read:

515. (a) The ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, provided that the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. The ~~commission~~ *secretary* shall conduct a review of the duties that meet the test of the exemption. The

~~commission~~ *secretary* may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to duties that meet the test of the exemption without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(b) (1) The ~~commission~~ *secretary* may establish additional exemptions to hours of work requirements under this division where it finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry. This paragraph shall become inoperative on January 1, 2005.

(2) Except as otherwise provided in this section and in subdivision (g) of Section 511, nothing in this section requires the ~~commission~~ *secretary* to alter any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997. Except as otherwise provided in this division, the ~~commission~~ *secretary* may review, retain, or eliminate any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997.

(c) For the purposes of this section, "full-time employment" means employment in which an employee is employed for 40 hours per week.

(d) For the purpose of computing the overtime rate of compensation required to be paid to a nonexempt full-time salaried employee, the employee's regular hourly rate shall be $\frac{1}{40}$th of the employee's weekly salary.

(e) For the purposes of this section, "primarily" means more than one-half of the employee's worktime.

(f) (1) In addition to the requirements of subdivision (a), registered nurses employed to engage in the practice of nursing shall not be exempted from coverage under any part of the orders of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*, unless they individually meet the criteria for exemptions established for executive or administrative employees.

(2) This subdivision does not apply to any of the following:

(A) A certified nurse midwife who is primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(B) A certified nurse anesthetist who is primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(C) A certified nurse practitioner who is primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(D) Nothing in this paragraph shall exempt the occupations set forth in subparagraphs (A), (B), and (C) from meeting the requirements of subdivision (a).

SEC. 1088. Section 516 of the Labor Code is amended to read:

516. Except as provided in Section 512, the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

SEC. 1089. Section 554 of the Labor Code is amended to read:

554. (a) Sections 551 and 552 shall not apply to any cases of emergency nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of trains. This chapter, with the exception of Section 558, shall not apply to any person employed in an agricultural occupation, as defined in Order No. 14-80 (operative January 1, 1998) of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, if in each calendar month the employee receives days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this chapter relating to collective bargaining agreements, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

(b) In addition to the exceptions specified in subdivision (a), the Chief of the Division of Labor Standards Enforcement may, when in his or her judgment hardship will result, exempt any

employer or employees from the provisions of Sections 551 and 552.

SEC. 1090. Section 558 of the Labor Code is amended to read:

558. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* shall be subject to a civil penalty as follows:

(1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

SEC. 1091. Section 1030 of the Labor Code is amended to read:

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage

order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* shall be unpaid.

SEC. 1092. Section 1173 of the Labor Code is amended to read:

1173. *(a)* It is the continuing duty of the ~~Industrial Welfare Commission~~ *Secretary of Labor and Workforce Development and the Labor and Workforce Development Agency*, hereinafter referred to in this chapter as the ~~commission~~ *secretary or the agency respectively*, to ascertain the wages paid to all employees in this state, to ascertain the hours and conditions of labor and employment in the various occupations, trades, and industries in which employees are employed in this state, and to investigate the health, safety, and welfare of those employees.

~~The commission~~

(b) The secretary shall conduct a full review of the adequacy of the minimum wage at least once every two years. The ~~commission~~ *secretary* may, upon ~~its~~ *his or her* own motion or upon petition, amend or rescind any order or portion of any order or adopt an order covering any occupation, trade, or industry not covered by an existing order pursuant to this chapter.

~~Before~~

(c) Before adopting any new rules, regulations, or policies, the ~~commission~~ *secretary* shall consult with the Occupational Safety and Health Standards Board to determine those areas and subject matters where the respective jurisdictions of the ~~commission~~ *secretary* and the Occupational Safety and Health Standards Board overlap. This consultation need not take the form of a joint meeting. In the case of such overlapping jurisdiction, the Occupational Safety and Health Standards Board shall have exclusive jurisdiction, and rules, regulations, or policies of the ~~commission~~ *agency* on the same subject have no force or effect.

SEC. 1093. Section 1174 of the Labor Code is amended to read:

1174. Every person employing labor in this state shall:

(a) Furnish to the ~~commission~~ *secretary*, at ~~its~~ *his or her* request, reports or information that the ~~commission~~ *secretary* requires to carry out this chapter. The reports and information shall be verified if required by the ~~commission or any member thereof~~ *secretary*.

(b) Allow ~~any member of the commission~~ *the secretary* or the employees of the Division of Labor Standards Enforcement free

access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The ~~commission~~ *secretary* may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.

(c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.

(d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the ~~commission~~ *secretary*, but in any case shall be kept on file for not less than two years.

SEC. 1094. Section 1174.5 of the Labor Code is amended to read:

1174.5. Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow ~~any member of the commission~~ *the secretary* or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars ($500).

SEC. 1095. Section 1175 of the Labor Code is amended to read:

1175. Any person, or officer or agent thereof, is guilty of a misdemeanor who:

(a) Neglects or refuses to furnish the information requested under the provisions of Section 1174.

(b) Refuses access to his *or her* place of business or employment to ~~any member of the commission~~ *the secretary* or employee of the Division of Labor Standards Enforcement when administering or enforcing this chapter.

(c) Hinders ~~such member,~~ *the secretary* or employee in securing information authorized by Section 1174.

(d) Fails to keep any of the records required by Section 1174.

SEC. 1096. Section 1176 of the Labor Code is amended to read:

1176. The ~~commission or any members thereof~~ *secretary* may ~~subpena~~ *subpoena* witnesses and administer oaths. All witnesses ~~subpenaed~~ *subpoenaed* by the ~~commission~~ *secretary* shall be paid the fees and mileage fixed by law in civil cases. In case of the failure of a person to comply with an order or ~~subpena~~ *subpoena* of the ~~commission or any member thereof~~ *secretary*, or in the case of the refusal of a witness to testify to any matter regarding which he *or she* may lawfully be interrogated before any wage board or the ~~commission~~ *secretary*, it shall be the duty of the superior court or judge thereof, on the application of ~~a member of the commission~~ *the secretary*, to compel obedience in a manner by which ~~such~~ obedience could be compelled in a proceeding pending before the court.

SEC. 1097. Section 1176.1 of the Labor Code is amended to read:

1176.1. Any interested party may petition the ~~commission~~ *secretary* requesting the adoption, amendment, or repeal of a regulation. The petition shall state clearly and concisely all of the following:

(a) The substance or nature of the regulation, amendment, or repeal that is requested.

(b) The reason for the request.

(c) Reference to the ~~commission's~~ *secretary's* authority to take the action that is requested.

SEC. 1098. Section 1176.3 of the Labor Code is amended to read:

1176.3. (a) Within 120 days of the receipt of a petition requesting the adoption, amendment, or repeal of a regulation, the ~~commission~~ *secretary* shall notify the petitioner in writing of the receipt of the petition, set the matter for consideration at a public meeting, and issue a written decision taking one of the following actions:

(1) Setting the matter for public hearing pursuant to Section 1178 or 1178.5.

(2) Denying the petition. A decision denying a petition shall include a statement explaining the reasons for the denial.

(b) The petitioner may request reconsideration of any part or all of a decision denying a petition pursuant to paragraph (2) of subdivision (a) ~~of Section 1176.3~~. The ~~commission's~~ *secretary's* reconsideration of any matter relating to a petition shall be subject

to subdivision (a), except that a decision to deny reconsideration shall be final.

(c) In cases where a petition is referred to a wage board, the ~~commission~~ *secretary* shall complete its final actions on the petition within 90 days after completion of the public hearing process pursuant to subdivision (c) of Section 1178.5.

SEC. 1099. Section 1177 of the Labor Code is amended to read:

1177. (a) The ~~commission~~ *secretary* may make and enforce rules of practice and procedure and shall not be bound by the rules of evidence. ~~Each order of the commission shall be concurred in by a majority of the commissioners.~~

(b) The ~~commission~~ *secretary* shall prepare a statement as to the basis upon which an adopted or amended order is predicated. ~~The statement shall be concurred in by a majority of the commissioners.~~ The ~~commission~~ *secretary* shall publish a copy of the statement with the order in the California Regulatory Notice Register. The ~~commission~~ *secretary* also shall provide a copy of the statement to any interested party upon request.

SEC. 1100. Section 1178 of the Labor Code is amended to read:

1178. If after investigation the ~~commission~~ *secretary* finds that in any occupation, trade, or industry, the wages paid to employees may be inadequate to supply the cost of proper living, or that the hours or conditions of labor may be prejudicial to the health, morals, or welfare of employees, the ~~commission~~ *secretary* shall select a wage board to consider ~~any of such~~ *those* matters and transmit to ~~such~~ *that* wage board the information supporting its findings gathered in the investigation. ~~Such~~ *The* investigation shall include at least one public hearing.

SEC. 1101. Section 1178.5 of the Labor Code is amended to read:

1178.5. (a) If the ~~commission~~ *secretary* finds that wages paid to employees may be inadequate to supply the cost of proper living, ~~it~~ *he or she* shall select one wage board composed of an equal number of representatives of employers and employees, and a ~~nonvoting~~ representative of the ~~commission~~ *secretary*, designated by the ~~commission~~ *secretary*, who shall act as chairperson. The wage board shall consider the findings of the ~~commission~~ *secretary* and ~~such~~ other information it deems appropriate and report to the

~~commission~~ *secretary* its recommendation of a minimum wage adequate to supply the necessary cost of proper living to, and maintain the health and welfare of employees in this state, and its recommendations on ~~such~~ other matters related to the minimum wage on which the ~~commission~~ *secretary* has requested recommendations.

(b) If the ~~commission~~ *secretary* finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry, ~~it~~ *he or she* shall select a wage board composed of an equal number of representatives of employers and employees in the occupation, trade, or industry in question, and a ~~nonvoting~~ representative of the ~~commission~~ *secretary*, designated by the ~~commission~~ *secretary*, who shall act as chairperson. The wage board shall consider the findings of the ~~commission~~ *secretary* and ~~such~~ other information it deems appropriate and report to the ~~commission~~ *secretary* its recommendation as to what action should be taken by the ~~commission~~ *secretary* with respect to the matter under consideration.

(c) Prior to amending or rescinding any existing order or adopting any new order, and after receipt of the wage board report and recommendation, the ~~commission~~ *secretary* shall prepare proposed regulations with respect to the matter under consideration. The proposed regulations shall include any recommendation of the wage board which received the support of at least two-thirds of the members of the wage board. A public hearing on the proposed regulations shall be held in each of at least three cities in this state, except when the proposed regulations would affect only an occupation, trade, or industry which is not statewide in scope, in which case a public hearing shall be held in the locality in which the occupation, trade, or industry prevails. The proceedings shall be recorded and transcribed and shall thereafter be a matter of public record.

SEC. 1102. Section 1179 of the Labor Code is amended to read:

1179. The members of the wage board shall be allowed fifty dollars ($50) per diem and necessary traveling expenses while engaged in such conferences. The ~~commission~~ *secretary* shall make rules governing the number and selection of the members and the mode of procedure of the wage board, and shall exercise

exclusive jurisdiction over all questions as to the validity of the procedure.

SEC. 1103. Section 1180 of the Labor Code is amended to read:

1180. The proceedings and deliberations of the wage board shall be made a matter of record for the use of the ~~commission~~ *secretary*, and shall be admissible as evidence in any proceedings before the ~~commission~~ *secretary*.

SEC. 1104. Section 1181 of the Labor Code is amended to read:

1181. Upon the fixing of the time and place for the holding of a hearing for the purpose of considering and acting upon the proposed regulations or any matters referred to in Sections 1176 to 1180, inclusive, the ~~commission~~ *secretary* shall:

(a) Give public notice thereof by advertisement in at least one newspaper published in each of the cities of Los Angeles, Oakland, Sacramento, San Jose, Fresno, Eureka, San Diego, Long Beach, Alameda, Berkeley, Stockton, San Bernardino, and San Francisco.

(b) Mail a copy of the notice and the proposed regulations to the clerk of the superior court of each county in the state to be posted at the courthouse; to each association of employers or employees which, in the opinion of the ~~commission~~ *secretary*, would be affected by the hearing; and to any person or organization within this state filing with the ~~commission~~ *secretary* a written request for notice of ~~such~~ *the* hearing. Failure to mail ~~such~~ *that* notice shall not invalidate any order of the ~~commission~~ *secretary* issued after ~~such~~ *the* hearing.

~~The~~

(c) The notice shall also state the time and place fixed for the hearing, which shall not be less than 30 days from the date of publication and mailing of ~~such~~ *the* notices.

SEC. 1105. Section 1182 of the Labor Code is amended to read:

1182. (a) After receipt of the wage board report and the public hearings on the proposed regulations, the ~~commission~~ *secretary* may, upon ~~its~~ *his or her* own motion, amend or rescind an existing order or promulgate a new order. However, with respect to proposed regulations based on recommendations supported by at least two-thirds of the members of the wage board, the ~~commission~~ *secretary* shall adopt ~~such~~ *the* proposed regulations, unless ~~it~~ *he*

or she finds there is no substantial evidence to support ~~such~~ *the* recommendations.

(b) If at any time the federal minimum wage applicable to employees covered by the Fair Labor Standards Act of 1938, as amended, prior to February 1, 1967, is scheduled to exceed the minimum wage fixed by ~~the commission~~ *state law*, the provisions of Sections 1178 and 1178.5 pertaining to wage boards shall be waived and the ~~commission~~ *secretary* shall, in a public meeting, adopt an order fixing a new minimum wage at the scheduled higher federal minimum wage. The effective date of such order shall be the same as the effective date of the federal minimum wage, and such order shall not become operative in the event the scheduled increase in the federal minimum wage does not become operative.

SEC. 1106. Section 1182.1 of the Labor Code is amended to read:

1182.1. Any action taken by the ~~commission~~ *secretary* pursuant to Sections 517 and 1182 shall be published in at least one newspaper in each of the Cities of Los Angeles, Sacramento, Oakland, San Jose, Fresno, San Diego, and San Francisco. A summary of the action taken and notice of where the complete text of the new or amended order may be obtained may be published in lieu of the complete text when the ~~commission~~ *secretary* determines ~~such~~ *that this* summary and notice will adequately inform the public. The statement as to the basis of the order need not be published.

SEC. 1107. Section 1182.4 of the Labor Code is amended to read:

1182.4. (a) No student employee, camp counselor, or program counselor of an organized camp shall be subject to a minimum wage or maximum hour order of the ~~commission~~ *secretary* if the student employee, camp counselor, or program counselor receives a weekly salary of at least 85 percent of the minimum wage for a 40-hour week, regardless of the number of hours per week the student employee, camp counselor, or program counselor might work at the organized camp. If the student employee, camp counselor, or program counselor works less than 40 hours per week, the student employee, camp counselor, or program counselor shall be paid at least 85 percent of the minimum hourly wage for each hour worked.

(b) An organized camp may deduct the value of meals and lodging from the salary of a student employee, camp counselor, or program counselor pursuant to appropriate orders of the ~~commission~~ *secretary*.

(c) As used in this section, "organized camp" means an organized camp, as defined in Section 18897 of the Health and Safety Code, which meets the standards of the American Camping Association.

SEC. 1108. Section 1182.5 of the Labor Code is amended to read:

1182.5. (a) The Legislature finds that the time permitted the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* to consider daily overtime compensation petitions that are to be given priority attention by the ~~commission~~ *secretary* pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated delays in the review and possible modification of applicable ~~commission~~ *agency* orders for preexisting workweek arrangements, as defined in subdivision (b). The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these unanticipated delays by the enactment of special ~~commission~~ *agency* review procedures that augment, and do not limit in any way, the rights and privileges of parties before the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* under this chapter.

(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 modified or abandoned by an employer because the workweek arrangement did not qualify for any exemption provided by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* from ~~its~~ daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable ~~commission~~ *agency* order.

(c) *(1)* An employer who has had in operation an established preexisting workweek arrangement may, prior to July 1, 1985, file a verified petition with the ~~commission~~ *secretary* for review and modification of an applicable order and, upon filing this petition, shall simultaneously file a copy with the Labor Commissioner. Upon receipt of the petition by the Labor Commissioner a stay of

enforcement of the applicable ~~commission~~ *agency* order as it would affect the workweek arrangement shall take effect. The Labor Commissioner may reject a petition that, on its face, cannot qualify as a preexisting workweek arrangement. Within three months of commencement of the stay the Labor Commissioner shall certify the preexisting workweek arrangement to the ~~commission~~ *secretary* if, upon examination, the Labor Commissioner finds that all of the following conditions are met by the workweek arrangement:

~~(1)~~

(A) It was established by the petitioning employer and was in operation prior to November 1980.

~~(2)~~

(B) It had to be abandoned or modified by the employer because of noncompliance with the applicable order of the commission.

~~(3)~~

(C) It was established on a nondiscriminatory basis with the support of affected employees and it continues to have the support of two-thirds of the employees in the covered work group.

~~(4)~~

(D) It complied with all applicable standards of the ~~commission~~ *Labor and Workforce Development Agency*, other than daily overtime requirements.

~~(5)~~

(E) It is found, after consultation with the Director of Industrial Relations when appropriate, not to be adverse to the health and welfare of affected employees.

~~In~~

(2) In the course of examining a preexisting workweek arrangement and following certification, the Labor Commissioner shall not divert any of the resources of the Division of Labor Standards Enforcement for the purpose of investigating, prosecuting, or otherwise acting upon any alleged violations of the daily overtime provisions of an applicable ~~commission~~ *Labor and Workforce Development Agency* order during any period in 1980 in which a court-issued stay of enforcement was in effect for these provisions; provided, the workweek arrangement involved was in operation during that period in good faith reliance by the employer upon the court-issued stay of enforcement and with the approval of two-thirds of the employer's affected employees.

(d) In the course of examining a petition for certification to the ~~commission~~ *secretary*, the Labor Commissioner shall have access to all pertinent records of the petitioning employer and shall have the authority to converse with affected employees of the employer without the presence of management. Until the ~~commission~~ *secretary* takes action on a petition, the Labor Commissioner shall retain the authority to withdraw a certification to the ~~commission~~ *secretary* for cause.

(e) Upon receipt by the ~~commission~~ *secretary* of the Labor Commissioner's certification of a preexisting workweek arrangement, the stay of enforcement shall continue as hereinafter provided beyond the three-month period for certification until modified or rescinded by the ~~commission~~ *Labor and Workforce Development Agency*. The modification or rescission shall not be made without an appropriate hearing and findings regarding the applicable order. If the ~~commission~~ *secretary* undertakes review of the applicable order, the stay of enforcement shall continue through the review process and until any resulting modification of the applicable order, in which case, the modified order shall become applicable to the preexisting workweek arrangement.

SEC. 1109. 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 this code or any applicable wage order of the ~~commission~~ *Labor and Workforce Development Agency* 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 that includes three working days of not more than 12 hours a day, or regularly scheduled workweeks 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 modified or abandoned by an employer because the workweek

arrangement did not qualify for any exemption provided by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* from its daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable ~~commission~~ *agency* 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. 1110. Section 1182.7 of the Labor Code is amended to read:

1182.7. (a) The Legislature finds that the time permitted the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* to consider petitions, including, but not limited to, daily overtime compensation petitions that are to be given priority attention by the ~~commission~~ *secretary* pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated and unwarranted delays in the review and possible modification of applicable ~~commission~~ *agency* orders. The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these delays by the enactment of special ~~commission~~ *agency* review procedures that augment, and do not limit in any

way, the rights and privileges of parties before the ~~Industrial Welfare Commission~~ *agency* under this chapter.

(b) Notwithstanding any other provisions of this chapter to the contrary, if a labor organization or a trade association recognized in the health care industry files or has filed a petition with the ~~commission~~ *secretary* that requests an amendment to an order of the ~~commission~~ *agency* that would directly regulate only the health care industry, the petitioner may request that the ordinary procedure established by this chapter for the review of petitions of this nature not be used and that the procedure specified in subdivisions (c) and (d) be followed instead. If the request is made by the petitioner, the ~~commission~~ *secretary* shall be required to follow the procedure specified in subdivisions (c) and (d).

(c) *(1)* Upon the filing of a request under subdivision (b), the procedure to revise an order of the ~~commission~~ *agency* provided in Sections 1178 to 1182, inclusive, shall be waived. In lieu of that procedure, the ~~commission~~ *secretary* shall propose the adoption of or may reject the petition, in whole or in part, without appointing a wage board. The ~~commission~~ *secretary* shall act on the petition within 45 days of the date the petition is originally filed. If the ~~commission~~ *secretary* rejects the petition, ~~it~~ *he or she* shall state its reasons for rejection.

~~The commission~~

(2) The agency shall thereafter conduct hearings on any proposal to adopt the petition in whole or in part in the manner specified in subdivision (c) of Section 1178.5 and publish the proposed action in the manner provided in Section 1181. However, the hearings shall be conducted within 90 days of the date the petition is originally filed.

(d) Not more than 30 days following the hearings specified in subdivision (c), the ~~commission~~ *secretary* shall take final action with respect to ~~its~~ *his or her* proposal. No later than 15 days following final action, notice of the action taken shall be given in the manner provided for in Sections 1182.1 and 1183. Any action adopting, amending, or repealing an order of the ~~commission~~ *agency* pursuant to this section shall take effect 60 days following the date of this notice.

(e) *(1)* Notwithstanding any other provisions of this chapter, the ~~commission~~ *secretary* shall not adopt, amend, or repeal a proposal which has been changed from that which has originally

been made available to the public, unless the change is nonsubstantive in nature and the ~~commission~~ *secretary* complies with the procedure specified in this subdivision.

~~If~~

(2) If a substantive change is made to the original proposal after the close of the public hearing, the full text of the resulting change shall be noticed within five days and made available to the public for comments for at least 10 days before the ~~commission~~ *secretary* adopts, amends, or repeals the regulation. No later than 10 days following the close of the public comment period, the ~~commission~~ *secretary* shall take final action with respect to ~~its~~ *his or her* modified proposal, and give notice of that action within 10 days in the manner provided in Sections 1182.1 and 1183. In no case shall any action adopting, amending, or repealing an order take effect more than 60 days following the close of the public comment period.

SEC. 1111. Section 1182.8 of the Labor Code is amended to read:

1182.8. No employer shall be in violation of any provision of any applicable order of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* relating to credit or charges for lodging for charging, pursuant to a voluntary written agreement, a resident apartment manager up to two-thirds of the fair market rental value of the apartment supplied to the manager, if no credit for the apartment is used to meet the employer's minimum wage obligation to the manager.

SEC. 1112. Section 1182.11 of the Labor Code is amended to read:

1182.11. Notwithstanding any other provision of this part, on and after March 1, 1997, the minimum wage for all industries shall not be less than five dollars ($5.00) per hour; on and after March 1, 1998, the minimum wage for all industries shall not be less than five dollars and seventy-five cents ($5.75) per hour. ~~The Industrial Welfare Commission shall, at a public meeting, adopt minimum wage orders consistent with this section without convening wage boards, which wage orders shall be final and conclusive for all purposes.~~

SEC. 1113. Section 1183 of the Labor Code is amended to read:

1183. (a) So far as practicable, the ~~commission~~ *secretary*, by mail, shall send a copy of the order authorized by Section 1182 to each employer in the occupation or industry in question, and each employer shall post a copy of the order in the building in which employees affected by the order are employed. The ~~commission~~ *secretary* shall also send a copy of the order to each employer registering his or her name with the ~~commission~~ *secretary* for that purpose, but failure to mail the order or notice of the order to any employer affected by the order shall not relieve the employer from the duty of complying with the order.

(b) The ~~commission~~ *secretary* shall prepare a summary of the regulations contained in ~~its~~ *his or her* orders. The summary shall be printed on the first page of the document containing the full text of the order. The summary shall include a brief description of the following subjects of the orders: minimum wage, hours and days of work, reporting time, pay records, cash shortages and breakage, uniforms and equipment, meals and lodging, meal and rest periods, and seats. The summary shall also include information as to how to contact the field office of the Division of Labor Standards Enforcement, how to obtain a copy of the full text of the order and the statement as to the basis for the order, and any other information the ~~commission~~ *secretary* deems necessary. The ~~commission~~ *secretary*, at ~~its~~ *his or her* discretion, may prepare a separate summary for each order or any combination of orders, or ~~it~~ *he or she* may incorporate the regulations of all its orders into a single summary.

(c) A finding by the ~~commission~~ *secretary* that there has been publication of any action taken by the ~~commission~~ *secretary* as required by Section 1182.1 is conclusive as to the obligation of an employer to comply with the order.

(d) Every employer who is subject to an order of the ~~commission~~ *agency* shall post a copy of the order and keep it posted in a conspicuous location frequented by employees during the hours of the workday.

SEC. 1114. Section 1184 of the Labor Code is amended to read:

1184. Any action taken by the ~~commission~~ *secretary* pursuant to Section 1182 shall be effective on the first day of the succeeding January or July and not less than 60 days from the date of publication pursuant to Section 1182.1.

SEC. 1115. Section 1185 of the Labor Code is amended to read:

1185. The orders of the ~~commission~~ *agency* fixing minimum wages, maximum hours, and standard conditions of labor for all employees, when promulgated in accordance with the provisions of this chapter, shall be valid and operative and ~~such~~ *these* orders are hereby expressly exempted from the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 1116. Section 1186 of the Labor Code is amended to read:

1186. A person employed in the practice of pharmacy is not exempt from coverage under any provision of the orders of the ~~Industrial Welfare Commission~~ *agency* unless he or she individually meets the criteria established for exemption as executive or administrative employees. No person employed in the practice of pharmacy may be subject to any exemption from coverage under the orders of the ~~Industrial Welfare Commission~~ *agency* established for professional employees.

SEC. 1117. Section 1187 of the Labor Code is amended to read:

1187. The findings of fact made by the ~~commission~~ *secretary* are, in the absence of fraud, conclusive.

SEC. 1118. Section 1188 of the Labor Code is amended to read:

1188. Any person aggrieved directly or indirectly by any final rule or regulation of the ~~commission~~ *secretary* made under this chapter may apply to the ~~commission~~ *secretary* for a rehearing in respect to any matters determined or covered therein and specified in the application for rehearing within ~~twenty~~ *20* days after the publication thereof. The application for rehearing shall be verified and shall state fully the grounds upon which the application for rehearing is based. The ~~commission~~ *secretary,* upon considering an application for rehearing, may grant the same by order and notice thereof given by mail to the party applying for the rehearing, and fix a time for the rehearing, and reconsider ~~its~~ *his or her* order, rule, or regulation. The ~~commission~~ *secretary* may redetermine the matter upon the record before ~~it~~ *him or her* and give notice of ~~its~~ *that* redetermination in the same manner as provided for service of an original order, rule, or regulation. The ~~commission~~ *secretary*

may deny such rehearing upon the record before ~~it~~ *him or her*, giving notice of ~~its~~ *that* decision by mail to the applicant therefor. ~~Such~~ *A* rehearing is deemed to be denied unless acted upon by the ~~commission~~ *secretary* within thirty days after being filed.

SEC. 1119. Section 1190 of the Labor Code is amended to read:

1190. Nothing in this chapter shall prevent a review or other action permitted by the Constitution and laws of this State by a court of competent jurisdiction with reference to any order, rule, or regulation of the ~~commission~~ *secretary* under this chapter.

SEC. 1120. Section 1191 of the Labor Code is amended to read:

1191. For any occupation in which a minimum wage has been established, the ~~commission~~ *secretary* may issue to an employee who is mentally or physically handicapped, or both, a special license authorizing the employment of the licensee for a period not to exceed one year from date of issue, at a wage less than the legal minimum wage. The ~~commission~~ *secretary* shall fix a special minimum wage for the licensee. ~~Such~~ *A* license may be renewed on a yearly basis.

SEC. 1121. Section 1191.5 of the Labor Code is amended to read:

1191.5. Notwithstanding the provisions of Section 1191, the ~~commission~~ *secretary* may issue a special license to a nonprofit organization such as a sheltered workshop or rehabilitation facility to permit the employment of employees who have been determined by the ~~commission~~ *secretary* to meet the requirements in Section 1191 without requiring individual licenses of such employees. The ~~commission~~ *secretary* shall fix a special minimum wage for such employees. The special license for the nonprofit corporation shall be renewed on a yearly basis, or more frequently as determined by the ~~commission~~ *secretary*.

SEC. 1122. Section 1192 of the Labor Code is amended to read:

1192. For any occupation in which a minimum wage has been established, the ~~commission~~ *secretary* may issue to an apprentice or learner a special license authorizing the employment of ~~such~~ *that* apprentice or learner for the time and under the conditions ~~which~~ *that* the ~~commission~~ *secretary* determines and at a wage

less than the legal minimum wage. The ~~commission~~ *secretary* shall fix a special wage for ~~such~~ *that* apprentice or learner.

SEC. 1123. Section 1193 of the Labor Code is amended to read:

1193. The ~~commission~~ *secretary* may fix the maximum number of employees to be employed under the licenses provided for in Sections 1191 and 1192 in any occupation, trade, industry, or establishment in which a minimum wage has been established.

SEC. 1124. Section 1193.5 of the Labor Code is amended to read:

1193.5. ~~The provisions of this~~ *This* chapter shall be administered and enforced by the ~~division~~ *Division of Labor Standards Enforcement*. Any authorized representative of the division shall have authority to:

(a) Investigate and ascertain the wages of all employees, and the hours and working conditions of all employees employed in any occupation in the ~~state;~~ *state.*

(b) Supervise the payment of unpaid minimum wages or unpaid overtime compensation owing to any employee under the provisions of this chapter or the orders of the ~~commission~~ *agency*. Acceptance of payment of sums found to be due on demand of the division shall constitute a waiver on the part of the employee of his or her cause of action under Section 1194.

Unpaid minimum wages or unpaid overtime wages recovered by the division under the provisions of this section which for any reason cannot be delivered within six months from date of collection to the employee for whom ~~such~~ *those* wages were collected shall be deposited into the Industrial Relations Unpaid Wage Fund in the State Treasury.

SEC. 1125. Section 1193.6 of the Labor Code is amended to read:

1193.6. (a) The department or ~~division~~ *Division of Labor Standards Enforcement* may, with or without the consent of the employee or employees affected, commence and prosecute a civil action to recover unpaid minimum wages or unpaid overtime compensation, including interest thereon, owing to any employee under this chapter or the orders of the ~~commission~~ *agency*, and, in addition to these wages, compensation, and interest, shall be awarded reasonable attorney's fees, and costs of suit. The consent of any employee to the bringing of this action shall constitute a

waiver on the part of the employee of his or her cause of action under Section 1194 unless the action is dismissed without prejudice by the department or the division.

(b) The amendments made to this section by Chapter 825 of the Statutes of 1991 shall apply only to civil actions commenced on or after January 1, 1992.

SEC. 1126. Section 1194.2 of the Labor Code is amended to read:

1194.2. (a) In any action under Section 1193.6 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by ~~an~~ *state law or* order of the ~~commission~~ *agency*, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. Nothing in this subdivision shall be construed to authorize the recovery of liquidated damages for failure to pay overtime compensation.

(b) Notwithstanding subdivision (a), if the employer demonstrates to the satisfaction of the court that the act or omission giving rise to the action was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the ~~commission~~ *agency*, the court may, in its discretion, refuse to award liquidated damages or award any amount of liquidated damages not exceeding the amount specified in subdivision (a).

(c) This section only shall apply to civil actions commenced on or after January 1, 1992.

SEC. 1127. Section 1195 of the Labor Code is amended to read:

1195. Any person may register with the Division of Labor Standards Enforcement a complaint that the wage paid to an employee for whom a minimum wage has been fixed by *state law or by* the ~~commission~~ *agency* is less than that rate. The division shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the minimum wage.

SEC. 1128. Section 1195.5 of the Labor Code is amended to read:

1195.5. The Division of Labor Standards Enforcement shall determine, upon request, whether the wages of employees~~, which~~ *that* exceed the minimum wages fixed by *state law or by* the

~~commission~~ *agency*, have been correctly computed and paid. For this purpose, the division may examine the books, reports, contracts, payrolls and other documents of the employer relative to the employment of employees. The division shall enforce the payment of any sums found, upon examination, to be due and unpaid to the employees.

SEC. 1129. Section 1197 of the Labor Code is amended to read:

1197. The minimum wage for employees fixed by *state law or, if hired by* the ~~commission~~ *agency* is the minimum wage to be paid to employees, and the payment of ~~a less~~ wage *that is less* than the minimum ~~so fixed~~ *wage* is unlawful.

SEC. 1130. Section 1197.1 of the Labor Code is amended to read:

1197.1. (a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by *state law or by* an order of the ~~commission~~ *agency* shall be subject to a civil penalty as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a person has paid or caused to be paid a wage less than the minimum, 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 statutory provision alleged to have been violated. The Labor Commissioner promptly shall take all appropriate action, in accordance with this section, to enforce the citation and to recover the civil penalty assessed in connection with the citation.

(c) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, the person shall, within 15 business days after service of the citation, notify the office of the

Labor Commissioner that appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her 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 an order, all of which 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 this finding to the appropriate superior court. The party shall 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.

(d) 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.

(e) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, a certified copy of the 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 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.

(f) 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 these 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.

(g) 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 the 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.

(h) The civil penalties provided for in this section are in addition to any other penalty provided by law.

(i) This section shall not apply to any order of the ~~commission~~ *agency* relating to household occupations.

SEC. 1131. Section 1198 of the Labor Code is amended to read:

1198. The maximum hours of work and the standard conditions of labor fixed by the ~~commission~~ *agency* shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

SEC. 1132. Section 1198.3 of the Labor Code is amended to read:

1198.3. (a) The ~~Chief of the Division of Labor Standards Enforcement~~ *Labor Commissioner* may, when in his or her judgment hardship will result, exempt any employer or employees from any mandatory day or days off requirement contained in any order of the ~~commission~~ *secretary*. Any exemption granted by the ~~chief~~ *Labor Commissioner* pursuant to this section shall be only of sufficient duration to permit the employer or employees to comply with the requirements contained in the order of the ~~commission~~ *secretary*, but not more than one year. The exemption may be renewed by the ~~chief~~ *Labor Commissioner* only after he or she has investigated and is satisfied that a good faith effort is being made to comply with the order of the ~~commission~~ *secretary*.

(b) No employer shall discharge or in any other manner discriminate against any employee who refuses to work hours in excess of those permitted by the order of the ~~commission~~ *secretary*.

SEC. 1133. Section 1198.4 of the Labor Code is amended to read:

1198.4. Upon request, the ~~Chief of the Division of Labor Standards Enforcement~~ *Labor Commissioner* shall make available to the public any enforcement policy statements or interpretations of orders of the ~~Industrial Welfare Commission~~ *agency*. Copies of ~~such~~ *those* policy statements shall be furnished to the ~~Industrial Welfare Commission~~ *agency*.

SEC. 1134. Section 1199 of the Labor Code is amended to read:

1199. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars ($100) or by imprisonment for not less than 30 days, or by both, who does any of the following:

(a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the ~~commission~~ *agency*.

(b) Pays or causes to be paid to any employee a wage less than the minimum fixed by *state law or by* an order of the ~~commission~~ *agency*.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the ~~commission~~ *secretary*.

SEC. 1135. Section 1200 of the Labor Code is amended to read:

1200. In every prosecution for violation of any provision of this chapter, the minimum wage, the maximum hours of work, and the standard conditions of labor fixed by the ~~commission~~ *agency* shall be presumed to be reasonable and lawful.

SEC. 1136. Section 1201 of the Labor Code is amended to read:

1201. The ~~commission~~ *agency* shall not act as a board of arbitration during a strike or lockout.

SEC. 1137. Section 1202 of the Labor Code is amended to read:

1202. Upon the request of the ~~commission~~ *secretary*, the Division of Labor Statistics and Research shall cause ~~such~~ *the* statistics and other data and information to be gathered, and investigations made, as the ~~commission~~ *secretary* may require. The cost thereof shall be paid out of the appropriations made for the expenses of the ~~commission~~ *agency*.

SEC. 1138. Section 1203 of the Labor Code is amended to read:

1203. The ~~commission~~ *agency* may publish and distribute from time to time reports and bulletins covering its operations and proceedings under this chapter and ~~such~~ other matters relative thereto ~~which~~ *that* it deems advisable.

SEC. 1139. Section 1204 of the Labor Code is amended to read:

1204. No order made by the ~~commission~~ *secretary* under ~~the provisions of Sections~~ *Section* 1182 or 1184 ~~of this chapter~~ shall be effective unless and until compliance is had with ~~the provisions of~~ Section 1178 ~~of this code~~.

SEC. 1140. Section 1391 of the Labor Code is amended to read:

1391. (a) Except as provided in Sections 1297, 1298, and 1308.7:

(1) No employer shall employ a minor 15 years of age or younger for more than eight hours in one day of 24 hours, or more than 40 hours in one week, or before 7 a.m. or after 7 p.m., except that from June 1 through Labor Day, a minor 15 years of age or younger may be employed for the hours authorized by this section until 9 p.m. in the evening.

(2) Notwithstanding paragraph (1), while school is in session, no employer shall employ a minor 14 or 15 years of age for more than three hours in any schoolday, nor more than 18 hours in any week, nor during school hours, except that a minor enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program may be employed for no more than 23 hours, any portion of which may be during school hours.

(3) No employer shall employ a minor 16 or 17 years of age for more than eight hours in one day of 24 hours or more than 48 hours in one week, or before 5 a.m., or after 10 p.m. on any day preceding a schoolday. However, a minor 16 or 17 years of age may be employed for the hours authorized by this section during any evening preceding a nonschoolday until 12:30 a.m. of the nonschoolday.

(4) Notwithstanding paragraph (3), while school is in session, no employer shall employ a minor 16 or 17 years of age for more than four hours in any schoolday, except as follows:

(A) The minor is employed in personal attendant occupations, as defined in the ~~Industrial Welfare Commission Minimum~~ *agency* Wage Order No. 15 (8 Cal. Code Regs. Sec. 11150), school-approved work experience, or cooperative vocational education programs.

(B) The minor has been issued a permit to work pursuant to subdivision (c) of Section 49112 *of the Education Code* and is employed in accordance with the provisions of that permit.

(b) For purposes of this section, "schoolday" means any day in which a minor is required to attend school for 240 minutes or more.

(c) Any person or the agent or officer thereof, or any parent or guardian, who directly or indirectly violates or causes or suffers the violation of this section is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than 60 days, or both. Any person who willfully violates this section shall, upon conviction, be subject to a fine of not more than ten thousand dollars ($10,000) or to imprisonment in the county jail for not more than six months, or both. No person shall be imprisoned under this section, except for an offense committed after the conviction of that person for a prior offense under this article.

(d) Nothing in this section shall apply to any minor employed to deliver newspapers to consumers.

SEC. 1141. Section 1391.2 of the Labor Code is amended to read:

1391.2. (a) Notwithstanding Sections 1391 and 1391.1, any minor under 18 years of age who has been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who has had an equal amount of education in a private school or by private tuition, or who has been awarded a certificate of proficiency pursuant to Section 48412 of the Education Code, may be employed for the same hours as an adult may be employed in performing the same work.

(b) Notwithstanding the provisions of the orders of the ~~Industrial Welfare Commission~~ *agency*, no employer shall pay any minor described in this section in his *or her* employ at wage rates less than the rates paid to adult employees in the same establishment for the same quantity and quality of the same classification of work~~; provided, however, that nothing herein~~. *Nothing in this*

section shall prohibit a variation of rates of pay for such minors and adult employees engaged in the same classification of work based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or other reasonable differentiation, when exercised in good faith.

SEC. 1142. Section 1400 of the Labor Code is amended to read:

1400. The definitions set forth in this section shall govern the construction and meaning of the terms used in this chapter:

(a) "Covered establishment" means any industrial or commercial facility or part thereof that employs, or has employed within the preceding 12 months, 75 or more persons.

(b) "Employer" means any person, as defined by Section 18, who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any covered establishment directly owned and operated by its corporate subsidiary.

(c) "Layoff" means a separation from a position for lack of funds or lack of work.

(d) "Mass layoff" means a layoff during any 30-day period of 50 or more employees at a covered establishment.

(e) "Relocation" means the removal of all or substantially all of the industrial or commercial operations in a covered establishment to a different location 100 miles or more away.

(f) "Termination" means the cessation or substantial cessation of industrial or commercial operations in a covered establishment.

(g) (1) This chapter does not apply where the closing or layoff is the result of the completion of a particular project or undertaking of an employer subject to Wage Order 11, regulating the Broadcasting Industry, Wage Order 12, regulating the Motion Picture Industry, or Wage Order 16, regulating Certain On-Site Occupations in the Construction, Drilling, Logging and Mining Industries, of the ~~Industrial Welfare Commission~~ *agency*, and the employees were hired with the understanding that their employment was limited to the duration of that project or undertaking.

(2) This chapter does not apply to employees who are employed in seasonal employment where the employees were hired with the understanding that their employment was seasonal and temporary.

(h) "Employee" means a person employed by an employer for at least 6 months of the 12 months preceding the date on which notice is required.

SEC. 1143. Section 1684 of the Labor Code is amended to read:

1684. (a) The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:

(1) The person has executed a written application in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(A) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(C) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(2) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) The person has deposited with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

(A) For payrolls up to five hundred thousand dollars ($500,000), a twenty-five thousand dollar ($25,000) bond.

(B) For payrolls of five hundred thousand dollars ($500,000) to two million dollars ($2,000,000), a fifty thousand dollar ($50,000) bond.

(C) For payrolls greater than two million dollars ($2,000,000), a seventy-five thousand dollar ($75,000) bond.

Where the contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, he or she shall be required to deposit an additional bond within 60 days. The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure to do so, or by any violation of this chapter, or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the ~~Industrial Welfare Commission~~ *agency*, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code.

(4) The person has paid to the Labor Commissioner a license fee of five hundred dollars ($500) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten dollar ($10) filing fee is not required. The Labor Commissioner shall deposit one hundred fifty dollars ($150) of each licensee's annual license fee into the Farmworker Remedial Account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond, or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor. In making these determinations, the Labor Commissioner shall disburse funds from the Farmworker Remedial Account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall also include interest on wages and any damages arising from the violation of orders of the ~~Industrial Welfare Commission~~ *agency*, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code. The Labor Commissioner may disburse funds from the Farmworker Remedial Account to farm labor contractors, for payment of farmworkers, where a contractor is unable to pay farmworkers due to the failure of a grower or packer to pay the contractor. Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the Farmworker Remedial Account.

(5) The person has taken a written examination that demonstrates an essential degree of knowledge of the current laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public. To successfully complete the examinations, the person must correctly answer at least 85 percent of the questions posed. The examination period shall not exceed four hours. The examination may only be taken a maximum of three times in a calendar year. The examinations shall include a demonstration of knowledge of the current laws and regulations regarding wages, hours, and working conditions, penalties, employee housing and transportation, collective bargaining, field sanitation, and safe work practices related to pesticide use, including all of the following subjects:

(A) Field reentry regulations.

(B) Worker pesticide safety training.

(C) Employer responsibility for safe working conditions.

(D) Symptoms and appropriate treatment of pesticide poisoning.

(6) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), when registration is required pursuant to federal law.

(b) (1) The Labor Commissioner shall consult with the Director of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Housing and Community Development, the Employment Development Department, the Department of Food and Agriculture, the Department of Motor Vehicles, and the Division of Occupational Safety and Health in preparing the examination required by paragraph (5) of subdivision (a) and the appropriate educational materials pertaining to the matters included in the examination, and may charge a fee of not more than one hundred dollars ($100) to cover the cost of administration of the examination.

(2) In addition, the person must enroll and participate in at least eight hours of relevant, educational classes each year. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in paragraph (1) and county agricultural commissioners.

(c) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination

specified in paragraph (5) of subdivision (a) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section ~~12501)~~ *12500)* of the Food and Agricultural Code, Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.

(4) Has complied with all other requirements of this section.

SEC. 1144. Section 2695.2 of the Labor Code is amended to read:

2695.2. (a) (1) For a sheepherder employed on a regularly scheduled 24-hour shift on a seven-day-a-week "on-call" basis, an employer may, as an alternative to paying the minimum wage for all hours worked, instead pay no less than the monthly minimum wage adopted by the *former* Industrial Welfare Commission on April 24, 2001. Any sheepherder who performs nonsheepherding, nonagricultural work on any workday shall be fully covered for that workweek by the provisions of any applicable laws or regulations relating to that work.

(2) After July 1, 2002, the amount of the monthly minimum wage permitted under paragraph (1) shall be increased each time that the state minimum wage is increased and shall become effective on the same date as any increase in the state minimum wage. The amount of the increase shall be determined by calculating the percentage increase of the new rate over the previous rate, and then by applying the same percentage increase to the minimum monthly wage rate.

(b) (1) When tools or equipment are required by the employer or are necessary to the performance of a job, the tools and

equipment shall be provided and maintained by the employer, except that a sheepherder whose wages are at least two times the minimum wage provided herein, or if paid on a monthly basis, at least two times the monthly minimum wage, may be required to provide and maintain handtools and equipment customarily required by the trade or craft.

(2) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of paragraph (1) upon issuance of a receipt to the sheepherder for the deposit. The deposits shall be made pursuant to Article 2 (commencing with Section 400) of Chapter 3 *of Part 1*. Alternatively, with the prior written authorization of the sheepherder, an employer may deduct from the sheepherder's last check the cost of any item furnished pursuant to paragraph (1) when the item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the sheepherder upon completion of the job.

(c) No employer of sheepherders shall employ a sheepherder for a work period of more than five hours without a meal period of no less than 30 minutes, except that when a work period of not more than six hours will complete a day's work, the meal period may be waived by the mutual consent of the employer and the sheepherder. An employer may be relieved of this obligation if a meal period of 30 minutes cannot reasonably be provided because no one is available to relieve a sheepherder tending flock alone on that day. Where a meal period of 30 minutes can be provided but not without interruption, a sheepherder shall be allowed to complete the meal period during that day.

(d) To the extent practicable, every employer shall authorize and permit all sheepherders to take rest periods. The rest period, insofar as is practicable, shall be in the middle of each work period. The authorized rest times shall be based on the total hours worked daily at the rate of 10 minutes *of* net rest time per four hours, or major fraction thereof, of work. However, a rest period need not be authorized for sheepherders whose total daily worktime is less than three and one-half hours.

(e) When the nature of the work reasonably permits the use of seats, suitable seats shall be provided for sheepherders working on or at a machine.

(f) After January 1, 2003, during times when a sheepherder is lodged in mobile housing units where it is feasible to provide lodging that meets the minimum standards established by this section because there is practicable access for mobile housing units, the lodging provided shall include at a minimum all of the following:

(1) Toilets and bathing facilities, which may include portable toilets and portable shower facilities.

(2) Heating.

(3) Inside lighting.

(4) Potable hot and cold water.

(5) Adequate cooking facilities and utensils.

(6) A working refrigerator, which may include a butane or propane gas refrigerator, or for no more than a one-week period during which a nonworking refrigerator is repaired or replaced, a means of refrigerating perishable food items, which may include ice chests, provided that ice is delivered to the sheepherder, as needed, to maintain a continuous temperature required to retard spoilage and ensure food safety.

(g) After January 1, 2003, all sheepherders shall be provided with all of the following at each worksite:

(1) Regular mail service.

(2) A means of communication through telephone or radio solely for use in a medical emergency affecting the sheepherder or for an emergency relating to the herding operation. If the means of communication is provided by telephone, the sheepherder may be charged for the actual cost of nonemergency telephone use. Nothing in this subdivision shall preclude an employer from providing additional means of communication to the sheepherder which are appropriate because telephones or radios are out of range or otherwise inoperable.

(3) Visitor access to the housing.

(4) Upon request and to the extent practicable, access to transportation to and from the nearest locale where shopping, medical, or cultural facilities and services are available on a weekly basis.

(h) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates or causes to be violated the provisions of this section shall be subject to a civil penalty, as follows:

(1) For the initial violation, fifty dollars ($50) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(2) For any subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(3) The affected employee shall receive payment of all wages recovered.

(i) If the application of any provision of any subdivision, sentence, clause, phrase, word, or portion of this legislation is held invalid, unconstitutional, unauthorized, or prohibited by statute, the remaining provisions thereof shall not be affected and shall continue to be given full force and effect as if the part held invalid or unconstitutional had not been included.

(j) Every employer of sheepherders shall post a copy of this part in an area frequented by sheepherders where it may be easily read during the workday. Where the location of work or other conditions make posting impractical, every employer shall make a copy of this part available to sheepherders upon request. Copies of this part shall be posted and made available in a language understood by the sheepherder. An employer is deemed to have complied with this subdivision if he or she posts where practical, or makes available upon request where posting is impractical, a copy of ~~the Industrial Welfare Commission~~ Order *Number* 14-2001 *of the former Industrial Welfare Commission*, as adopted on April 24, 2001, relating to sheepherders, provided that the posted material includes a sufficient summary of each of the provisions of this part.

SEC. 1145. Section 3205.5 of the Labor Code is amended to read:

3205.5. "Appeals board" means the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board ~~of the Division of Workers' Compensation~~.

SEC. 1146. Section 3550 of the Labor Code is amended to read:

3550. (a) Every employer subject to the compensation provisions of this division shall post and keep posted in a conspicuous location frequented by employees, and where the notice may be easily read by employees during the hours of the

workday, a notice that states the name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.

(b) Failure to keep any notice required by this section conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

(c) This section shall not apply with respect to the employment of employees as defined in subdivision (d) of Section 3351.

(d) The form and content of the notice required by this section shall be prescribed by the administrative director, after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency*, and shall advise employees that all injuries should be reported to their employer. The notice shall be easily understandable. It shall be posted in both English and Spanish where there are Spanish-speaking employees. The notice shall include the following information:

(1) How to get emergency medical treatment, if needed.

(2) The kinds of events, injuries, and illnesses covered by workers' compensation.

(3) The injured employee's right to receive medical care.

(4) The rights of the employee to select and change the treating physician pursuant to the provisions of Section 4600.

(5) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, vocational rehabilitation services, and death benefits, as appropriate.

(6) To whom injuries should be reported.

(7) The existence of time limits for the employer to be notified of an occupational injury.

(8) The protections against discrimination provided pursuant to Section 132a.

(9) The location and telephone number of the nearest information and assistance officer.

(e) Failure of an employer to provide the notice required by this section shall automatically permit the employee to be treated by his or her personal physician with respect to an injury occurring during that failure.

(f) The form and content of the notice required to be posted by this section shall be made available to self-insured employers and

insurers by the administrative director. Insurers shall provide this notice to each of their policyholders, with advice concerning the requirements of this section and the penalties for a failure to post this notice.

SEC. 1147. Section 3551 of the Labor Code is amended to read:

3551. (a) Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of the first pay period, written notice of the information contained in Section 3550. The content of the notice required by this section shall be prescribed by the administrative director after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency*.

(b) The notice required by this section shall be easily understandable and available in both English and Spanish. In addition to the information contained in Section 3550, the content of the notice required by this section shall include:

(1) Generally, how to obtain appropriate medical care for a job injury.

(2) The role and function of the primary treating physician.

(3) A form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician," as defined by Section 4600, or "personal chiropractor," as defined by Section 4601.

(c) The content of the notice required by this section shall be made available to employers and insurers by the administrative director. Insurers shall provide this notice to each of their policyholders, with advice concerning the requirements of this section and the penalties for a failure to provide this notice to all employees.

SEC. 1148. Section 4651 of the Labor Code is amended to read:

4651. (a) No disability indemnity payment shall be made by any written instrument unless it is immediately negotiable and payable in cash, on demand, without discount at some established place of business in the state.

Nothing in this section shall prohibit an employer from depositing the disability indemnity payment in an account in any

bank, savings and loan association or credit union of the employee's choice in this state, provided the employee has voluntarily authorized the deposit, nor shall it prohibit an employer from electronically depositing the disability indemnity payment in an account in any bank, savings and loan association, or credit union, that the employee has previously authorized to receive electronic deposits of payroll, unless the employee has requested, in writing, that disability indemnity benefits not be electronically deposited in the account.

(b) It is not a violation of this section if a delay in the negotiation of a written instrument is caused solely by the application of state or federal banking laws or regulations.

(c) On or before July 1, 2004, the administrative director shall present to the Governor recommendations on how to provide better access to funds paid to injured workers in light of the requirements of federal and state laws and regulations governing the negotiability of disability indemnity payments. The administrative director shall make specific recommendations regarding payments to migratory and seasonal farmworkers. The ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency* and the Employment Development Department shall assist the administrative director in the completion of this report.

SEC. 1149. Section 4709 of the Labor Code is amended to read:

4709. (a) Notwithstanding any other provisions of law, a dependent of a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, or 830.6 of the Penal Code, who is killed in the performance of duty or who dies or is totally disabled as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of duty, when the death, accident, or injury is compensable under this division or Division 4.5 (commencing with Section 6100) shall be entitled to a scholarship at any institution described in subdivision (*l*) of Section 69535 of the Education Code. The scholarship shall be in an amount equal to the amount provided a student who has been awarded a Cal Grant scholarship as specified in Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code.

(b) A dependent of an officer or employee of the Department of Corrections ~~or the Department of the Youth Authority described in Section 20017.77 of the Government Code~~ *and Rehabilitation* who is killed in the performance of duty, or who dies or is totally disabled as a result of an accident or an injury incurred in the performance of duty, when the death, accident, or injury is caused by the direct action of an inmate, and is compensable under this division or Division 4.5 (commencing with Section 6100), shall also be entitled to a scholarship specified in this section.

(c) Notwithstanding any other provisions of law, a dependent of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, who is killed in the performance of duty or who dies or is totally disabled as a result of an accident or injury incurred in the performance of duty, when the death, accident, or injury is compensable under this division or Division 4.5 (commencing with Section 6100), shall also be entitled to a scholarship specified in this section.

(d) Nothing in this section shall be interpreted to allow the admittance of the dependent into a college or university unless the dependent is otherwise qualified to gain admittance to the college or university.

(e) The scholarship provided for by this section shall be paid out of funds annually appropriated in the Budget Act to the ~~Student Aid Commission established by Article 2 (commencing with Section 69510) of Chapter 2 of Part 42 of the Education Code~~ *Office of Higher Education and Financial Aid*.

(f) The receipt of a scholarship provided for by this section shall not preclude a dependent from receiving a Cal Grant award pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code, any other grant, or any fee waivers that may be provided by an institution of higher education. The receipt of a Cal Grant award pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code, any other grant, or any fee waivers that may be provided by an institution of higher education shall not preclude a dependent from receiving a scholarship provided for by this section.

(g) The amendments made to this section during the 1995 portion of the 1995–96 Regular Session shall apply to a student receiving a scholarship on the effective date of the amendments

unless that application would result in the student receiving a scholarship on less favorable terms or in a lesser amount, in which case the student shall continue to receive the scholarship on the same terms and conditions in effect prior to the effective date of the amendments.

(h) As used in this section, "dependent" means the children (natural or adopted) or spouse, at the time of the death or injury, of the peace officer, law enforcement officer, or firefighter.

(i) Eligibility for a scholarship under this section shall be limited to a person who demonstrates financial need as determined by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* pursuant to Article 1.5 (commencing with Section 69503) of Chapter 2 of Part 42 of the Education Code. For purposes of determining financial need, the proceeds of death benefits received by the dependent, including, but not limited to, a continuation of income received from the Public Employees' Retirement System, the proceeds from the federal Public Safety Officers' Benefits Act, life insurance policies, proceeds from Sections 4702 and 4703.5, any private scholarship where receipt is predicated upon the recipient being the survivor of a deceased public safety officer, the scholarship awarded pursuant to Section 68120 of the Education Code, and any interest received from these benefits, shall not be considered.

SEC. 1150. Section 4728 of the Labor Code is amended to read:

4728. (a) A dependent of an elected public official, who was intentionally killed while holding office, in retaliation for, or to prevent the performance of, an official duty, shall be entitled to a scholarship at any institution described in subdivision (k) of Section 69535 of the Education Code. The scholarship shall be in an amount equal to the amount provided a student who has been awarded a Cal Grant scholarship as specified in Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code. Eligibility for a scholarship under this section shall be limited to a person who demonstrates financial need as determined by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* pursuant to Article 1.5 (commencing with Section 69503) of Chapter 2 of Part 42 of the Education Code.

(b) The scholarship provided for by this section shall be paid out of funds annually appropriated in the Budget Act to the ~~Student~~

~~Aid Commission~~ *Office of Higher Education and Financial Aid* established by Article 2 (commencing with Section 69510) of Chapter 2 of Part 42 of the Education Code.

(c) The receipt of a scholarship provided for by this section shall not preclude a dependent from receiving a Cal Grant award pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code, any other grant, or any fee waivers that may be provided by an institution of higher education. The receipt of a Cal Grant award pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code, any other grant, or any fee waivers that may be provided by an institution of higher education shall not preclude a dependent from receiving a scholarship provided for by this section.

(d) This section shall apply to a student receiving a scholarship on the effective date of the section unless that application would result in the student receiving a scholarship on less favorable terms or in a lesser amount, in which case the student shall continue to receive the scholarship on the same terms and conditions in effect prior to the effective date of this section.

(e) As used in this section, "dependent" means the children (natural or adopted) or spouse, at the time of the death or injury, of the elected public official.

SEC. 1151. Section 5307.27 of the Labor Code is amended to read:

5307.27. On or before December 1, 2004, the administrative director, in consultation with the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency*, shall adopt, after public hearings, a medical treatment utilization schedule, that shall incorporate the evidence-based, peer-reviewed, nationally recognized standards of care recommended by the ~~commission~~ *agency* pursuant to Section 77.5, and that shall address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers' compensation cases.

SEC. 1152. Section 5401 of the Labor Code is amended to read:

5401. (a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, which injury results in lost time beyond the employee's work shift at the time

of injury or which results in medical treatment beyond first aid, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this division to the injured employee, or in the case of death, to his or her dependents. As used in this subdivision, "first aid" means any one-time treatment, and any followup visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel. "Minor industrial injury" shall not include serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302. The claim form shall request the injured employee's name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. Claim forms shall be available at district offices of the Employment Development Department and the division. Claim forms may be made available to the employee from any other source.

(b) Insofar as practicable, the notice of potential eligibility for benefits required by this section and the claim form shall be a single document and shall instruct the injured employee to fully read the notice of potential eligibility. The form and content of the notice and claim form shall be prescribed by the administrative director after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency*. The notice shall be easily understandable and available in both English and Spanish. The content shall include, but not be limited to, the following:

(1) The procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter.

(2) A description of the different types of workers' compensation benefits.

(3) What happens to the claim form after it is filed.

(4) From whom the employee can obtain medical care for the injury.

(5) The role and function of the primary treating physician.

(6) The rights of an employee to select and change the treating physician pursuant to subdivision (e) of Section 3550 and Section 4600.

(7) How to get medical care while the claim is pending.

(8) The protections against discrimination provided pursuant to Section 132a.

(9) The following written statements:

(A) You have a right to disagree with decisions affecting your claim.

(B) You can obtain free information from an information and assistance officer of the state Division of Workers' Compensation, or you can hear recorded information and a list of local offices by calling [applicable information and assistance telephone number(s)].

(C) You can consult an attorney. Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at [telephone number of the State Bar of California's legal specialization program, or its equivalent].

(c) The completed claim form shall be filed with the employer by the injured employee, or, in the case of death, by a dependent of the injured employee, or by an agent of the employee or dependent. Except as provided in subdivision (d), a claim form is deemed filed when it is personally delivered to the employer or received by the employer by first-class or certified mail. A dated copy of the completed form shall be provided by the employer to the employer's insurer and to the employee, dependent, or agent who filed the claim form.

(d) The claim form shall be filed with the employer prior to the injured employee's entitlement to late payment supplements under subdivision (d) of Section 4650, or prior to the injured employee's request for a medical evaluation under Section 4060, 4061, or 4062. Filing of the claim form with the employer shall toll, for injuries occurring on or after January 1, 1994, the time limitations set forth in Sections 5405 and 5406 until the claim is denied by the employer or the injury becomes presumptively compensable pursuant to Section 5402. For purposes of this subdivision, a claim form is deemed filed when it is personally delivered to the employer or mailed to the employer by first-class or certified mail.

SEC. 1153. Section 6101 of the Labor Code is amended to read:

6101. Unless the context otherwise requires, as used in this division:

(a) "State agency" means any agency, department, division, commission, board, bureau, officer, or other authority of the State of California.

(b) "Fund" means State Compensation Insurance Fund.

(c) "Appeals board" means the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

SEC. 1154. Section 6354.7 of the Labor Code, as added by Section 84 of Chapter 6 of the Statutes of 2002, is amended to read:

6354.7. (a) The Workers' Occupational Safety and Health Education Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended, upon appropriation by the Legislature, by the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency* for the purpose of establishing and maintaining a worker occupational safety and health training and education program and insurance loss control services coordinator. The director shall levy and collect fees to fund these purposes from insurers subject to Section 6354.5. However, the fee assessed against any insurer shall not exceed the greater of one hundred dollars ($100) or 0.0286 percent of paid workers' compensation indemnity claims as reported for the previous calendar year to the designated rating organization for the analysis required under subdivision (b) of Section 11759.1 of the Insurance Code. All fees shall be deposited in the fund.

(b) The ~~commission~~ *agency* shall establish and maintain a worker safety and health training and education program. The purpose of the worker occupational safety and health training and education program shall be to promote awareness of the need for prevention education programs, to develop and provide injury and illness prevention education programs for employees and their representatives, and to deliver those awareness and training programs through a network of providers throughout the state. The ~~commission~~ *agency* may conduct the program directly or by means of contracts or interagency agreements.

(c) The ~~commission~~ *agency* shall establish an employer and worker advisory board for the program. The advisory board shall guide the development of curricula, teaching methods, and specific

course material about occupational safety and health, and shall assist in providing links to the target audience and broadening the partnerships with worker-based organizations, labor studies programs, and others that are able to reach the target audience.

(d) The program shall include the development and provision of a needed core curriculum addressing competencies for effective participation in workplace injury and illness prevention programs and on joint labor-management health and safety committees. The core curriculum shall include an overview of the requirements related to injury and illness prevention programs and hazard communication.

(e) The program shall include the development and provision of additional training programs for any or all of the following categories:

(1) Industries on the high hazard list.

(2) Hazards that result in significant worker injuries, illnesses, or compensation costs.

(3) Industries or trades where workers are experiencing numerous or significant injuries or illnesses.

(4) Occupational groups with special needs, such as those who do not speak English as their first language, workers with limited literacy, young workers, and other traditionally underserved industries or groups of workers. Priority shall be given to training workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those workers serving on a health and safety committee or serving as designated safety representatives.

(f) The program shall operate one or more libraries and distribution systems of occupational safety and health training material, which shall include, but not be limited to, all material developed by the program pursuant to this section.

(g) The advisory board shall annually prepare a written report evaluating the use and impact of programs developed.

(h) The payment of administrative costs incurred by the ~~commission~~ *agency* in conducting the program shall be made from the Workers' Occupational Safety and Health Education Fund.

SEC. 1155. Section 6354.7 of the Labor Code, as added by Section 15 of Chapter 866 of the Statutes of 2002, is amended to read:

6354.7. (a) The Workers' Occupational Safety and Health Education Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended, upon appropriation by the Legislature, by the ~~Commission on Health and Safety and Workers' Compensation~~ *Labor and Workforce Development Agency* for the purpose of establishing and maintaining a worker occupational safety and health training and education program and an insurance loss control services coordinator. The director shall levy and collect fees to fund these purposes from insurers subject to Section 6354.5. However, the fee assessed against any insurer shall not exceed the greater of one hundred dollars ($100) or 0.0286 percent of paid workers' compensation indemnity amounts for claims as reported for the previous calendar year to the designated rating organization for the analysis required under subdivisions (b) and (c) of Section 11759.1 of the Insurance Code. All fees shall be deposited in the fund.

(b) The ~~commission~~ *agency* shall establish and maintain a worker safety and health training and education program. The purpose of the worker occupational safety and health training and education program shall be to promote awareness of the need for prevention education programs, to develop and provide injury and illness prevention education programs for employees and their representatives, and to deliver those awareness and training programs through a network of providers throughout the state. The commission may conduct the program directly or by means of contracts or interagency agreements.

(c) The ~~commission~~ *agency* shall establish an employer and worker advisory board for the program. The advisory board shall guide the development of curricula, teaching methods, and specific course material about occupational safety and health, and shall assist in providing links to the target audience and broadening the partnerships with worker-based organizations, labor studies programs, and others that are able to reach the target audience.

(d) The program shall include the development and provision of a needed core curriculum addressing competencies for effective participation in workplace injury and illness prevention programs and on joint labor-management health and safety committees. The core curriculum shall include an overview of the requirements

related to injury and illness prevention programs and hazard communication.

(e) The program shall include the development and provision of additional training programs for any or all of the following categories:

(1) Industries on the high hazard list.

(2) Hazards that result in significant worker injuries, illnesses, or compensation costs.

(3) Industries or trades in which workers are experiencing numerous or significant injuries or illnesses.

(4) Occupational groups with special needs, such as those who do not speak English as their first language, workers with limited literacy, young workers, and other traditionally underserved industries or groups of workers. Priority shall be given to training workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those workers serving on a health and safety committee or serving as designated safety representatives.

(f) The program shall operate one or more libraries and distribution systems of occupational safety and health training material, which shall include, but not be limited to, all material developed by the program pursuant to this section.

(g) The advisory board shall annually prepare a written report evaluating the use and impact of programs developed.

(h) The payment of administrative costs incurred by the ~~commission~~ *agency* in conducting the program shall be made from the Workers' Occupational Safety and Health Education Fund.

SEC. 1156. Section 6359 of the Labor Code is amended to read:

6359. (a) The Legislature finds and declares the following:

(1) Every year 70 adolescents die from work injuries in the United States and 200,000 are injured, 70,000 seriously enough to require hospital treatment. Most of these injuries are preventable.

(2) A recent report by the Institute of Medicine and the National Research Council has brought national attention to the need for better education and interventions to aid injury and illness prevention efforts aimed at young workers.

(3) Since 1996, the California Study Group on Young Workers' Health and Safety, consisting of 30 representatives from key agencies and organizations involved with California youth

employment and education issues, including representatives from government agencies, business, labor, parent and teacher organizations, and others, has met to develop recommendations to better protect and educate California's young workers.

(4) The study group recommended the establishment of a Resource Network on Young Workers' Health and Safety, to assist in increasing the ability of young workers and their communities to identify and address workplace hazards in order to prevent young workers from becoming injured or ill on the job.

(b) It is the intent of the Legislature that the Department of Industrial Relations, the University of California, the State Department of Education, the State Department of Health Services, and the Employment Development Department cooperatively and individually conduct activities aimed at the prevention of occupational injuries and illnesses among young workers.

(c) The Department of Industrial Relations shall contract with a coordinator to establish a statewide young worker health and safety resource network. The primary function of the resource network shall be to assist in increasing the ability of young workers and their communities statewide to identify and address workplace hazards in order to prevent young workers from becoming injured or ill on the job. The network shall coordinate and augment existing outreach and education efforts and provide technical assistance, education materials and other support to schools, job training programs, employers and other organizations working to educate students and their communities about workplace health and safety and child labor laws.

(d) The resource network shall provide, and the lead center shall coordinate, services to all key groups throughout the state involved in education and protecting young workers, including, but not limited to:

(1) Teachers.

(2) Schools.

(3) Job training programs.

(4) Employers of youth.

(5) Parent groups.

(6) Youth organizations.

(7) Work permit issuers.

(e) The resource network shall be advised by a statewide advisory group, including, but not limited to, representatives from

the Department of Industrial Relations, the ~~Commission on Health and Safety and Worker's Compensation,~~ *Labor and Workforce Development Agency,* the University of California, the State Department of Education, the Department of Health Services, and the Employment Development Department, as well as business, labor, parents, and others experienced in working with youth doing agricultural and nonagricultural work. The advisory group shall represent diverse geographic regions of the state.

(f) This section shall be implemented subject to the availability of funding for the purposes of this section in the 2000–01 Budget Act.

SEC. 1157. Section 87 is added to the Military and Veterans Code, to read:

87. (a) The Department of Veterans Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Governor's Commission on State Veterans Cemeteries, which is hereby abolished.

(b) All regulations and orders adopted by the Governor's Commission on State Veterans Cemeteries and any of its predecessors that are in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any reference in statute, regulation, or order to the Governor's Commission on State Veterans Cemeteries or any of its predecessors shall be deemed to refer to the Department of Veterans Affairs. Any action by or against the Governor's Commission on State Veterans Cemeteries or any of its predecessors shall not abate but shall continue in the name of the Department of Veterans Affairs, and the Department of Veterans Affairs shall be substituted for the Governor's Commission on State Veterans Cemeteries and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Governor's Commission on State Veterans Cemeteries or any of its predecessors are a party shall be void or voidable by reason of this section, but shall continue in full force and effect, with the Department of Veterans Affairs assuming all of the rights, obligations, liabilities, and duties of the Governor's Commission

on State Veterans Cemeteries and any of its predecessors. That assumption by the Department of Veterans Affairs shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Governor's Commission on State Veterans Cemeteries, or any of its predecessors, shall become the indebtedness of the Department of Veterans Affairs. Any continuing obligations or responsibilities of the Governor's Commission on State Veterans Cemeteries for managing and maintaining bond issuances shall be transferred to the Department of Veterans Affairs without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the Governor's Commission on State Veterans Cemeteries or any of its predecessors in carrying out any functions transferred to the Department of Veterans Affairs shall instead be available for use by the Department of Veterans Affairs. All books, document, records, and property of the Governor's Commission on State Veterans Cemeteries shall be transferred to the Department of Veterans Affairs.

(e) Any officer or employee of the Governor's Commission on State Veterans Cemeteries, other than a temporary employee, who is performing a function transferred to the Department of Veterans Affairs and who is serving in the state civil service shall be transferred to the Department of Veterans Affairs pursuant to Section 19050.9 of the Government Code.

(f) The status, position, and rights of any officer or employee of the Governor's Commission on State Veterans Cemeteries shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Veterans Affairs, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18509) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 1158. Section 1300 of the Military and Veterans Code is repealed.

~~1300. There is in state government the Vietnam Veterans Memorial Commission composed of nine members, as follows:~~

~~(a) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly. The nonlegislative member shall be a Vietnam veteran.~~

~~(b) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate. The nonlegislative member shall be a Vietnam veteran.~~

~~(c) Five members appointed by the Governor, one of whom shall be a member of the Governor's staff or a Governor's appointee in the executive branch of state government and at least four of whom shall be Vietnam veterans.~~

~~The members shall elect one of their number to serve as chairperson.~~

SEC. 1159. Section 1300 is added to the Military and Veterans Code, to read:

1300. Any reference to the Vietnam Veterans Memorial Commission shall mean the Department of General Services.

SEC. 1160. Section 1301 of the Military and Veterans Code is repealed.

~~1301. At least six members of the commission shall be Vietnam veterans.~~

~~Members of the Legislature shall serve on the commission as ex officio members without vote and shall participate in the activities of the commission to the extent that the participation is not incompatible with their legislative duties.~~

~~Members of the commission shall receive no compensation but, except for the legislative members, shall receive a per diem and expenses while engaged in commission activities.~~

SEC. 1161. Section 1302 of the Military and Veterans Code is amended to read:

1302. The ~~commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support.~~

~~The commission~~ *Department of General Services* is responsible for setting policy. It is the duty of the staff hired by the ~~commission~~ *Department of General Services* to carry out that policy.

SEC. 1162. Section 1303 of the Military and Veterans Code is amended to read:

1303. (a) The construction of a memorial to California's Vietnam veterans on the grounds of the State Capitol is hereby authorized. For purposes of this chapter, the grounds of the State Capitol are that property in the City of Sacramento bounded by Ninth, Fifteenth, ~~"L",~~ "*L*," and "N" Streets. The actual site for the

memorial shall be selected by the ~~commission after consultation with the~~ Department of General Services.

(b) Funds for the construction of the memorial shall be provided through private contributions. The ~~commission~~ *Department of General Services* may receive contributions for this purpose.

SEC. 1163. Section 1304 of the Military and Veterans Code is amended to read:

1304. With respect to the design and construction of the memorial, the ~~commission~~ *Department of General Services* may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the memorial.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature through the Assembly Select Committee on Veterans' Affairs biannually on the progress of the memorial.

SEC. 1164. Section 1306 of the Military and Veterans Code is amended to read:

1306. (a) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the ~~commission~~ *Department of General Services* as a loan for purposes of this chapter. The ~~commission~~ *Department of General Services* shall reimburse the amount of this appropriation, plus interest at the same rate of interest as that earned by moneys invested in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the ~~commission~~ *Department of General Services* under this chapter.

(b) The Vietnam Veterans Memorial Account in the General Fund is hereby established. All funds received by the ~~commission~~ *Department of General Services* under this chapter shall be deposited in the account. The money in the account is hereby appropriated to the ~~commission~~ *Department of General Services* for purposes of this chapter without regard to fiscal years.

SEC. 1165. Section 1307 of the Military and Veterans Code is amended to read:

1307. The ~~commission~~ *Department of General Services* shall notify the Governor when construction of the memorial has been completed. This chapter shall remain in effect only until, and shall be repealed on, January 1 of the second year following that notification.

SEC. 1166. Section 1330 of the Military and Veterans Code is repealed.

~~1330. (a) The Secretary of Veterans Affairs shall establish a California Mexican American Veterans' Memorial Beautification and Enhancement Committee composed of seven members as follows:~~

~~(1) Five members appointed by the Governor.~~

~~(2) One member appointed by the President pro Tempore of the Senate.~~

~~(3) One member appointed by the Speaker of the Assembly.~~

~~(b) The secretary shall appoint one member from the committee to serve as chairperson.~~

SEC. 1167. Section 1330 is added to the Military and Veterans Code, to read:

1330. Any reference to the California Mexican American Veterans' Memorial Beautification and Enhancement Commission shall be deemed to be a reference to the Department of General Services.

SEC. 1168. Section 1331 of the Military and Veterans Code is repealed.

~~1331. Members of the committee shall not receive any compensation.~~

SEC. 1169. Section 1332 of the Military and Veterans Code is repealed.

~~1332. The committee may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support and be reimbursed for the cost of this support.~~

SEC. 1170. Section 1333 of the Military and Veterans Code is amended to read:

1333. The ~~committee~~ *Department of General Services* shall be responsible for ~~carrying out the purposes of this chapter~~ *setting*

policy consistent with the purposes of this chapter. The staff hired by the Department of General Services shall carry out that policy.

SEC. 1171. Section 1334 of the Military and Veterans Code is amended to read:

1334. (a) The beautification and enhancement of an existing memorial on state grounds is hereby authorized. For the purposes of this act, "state grounds" means that property in the City of Sacramento bounded by "Ninth," "Tenth," "L," and "N" Streets. The actual site for the beautification and enhancement of the memorial shall be the site of the existing memorial and surrounding ground.

(b) Funds for the beautification and enhancement of the memorial shall be provided through private contributions and through existing funds collected under the auspices of the California Mexican American Veterans' Memorial Beautification and Enhancement Commission. The Department of ~~Veterans Affairs~~ *General Services* may receive contributions for this purpose.

SEC. 1172. Section 1335 of the Military and Veterans Code is amended to read:

1335. With respect to the design and construction of an enhanced memorial, the ~~committee~~ *Department of General Services* may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the enhanced memorial.

(b) Implement procedures to solicit designs for beautifying and enhancing the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the enhanced memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the rededication of the memorial.

~~(e) Consult with the Department of General Services to determine parameters for the final size of the memorial.~~

~~(f) Consult with and obtain final design and site orientation approval from the Department of General Services and the Secretary of Veterans Affairs.~~

SEC. 1173. Section 1338 of the Military and Veterans Code is amended to read:

1338. The ~~committee~~ *Department of General Services* shall notify the Governor and the Secretary of Veterans Affairs when beautification and enhancement of the memorial pursuant to this chapter is complete. This chapter shall remain in effect only until, and shall be repealed on, January 1 of the year following that notification, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 1174. Section 1340 of the Military and Veterans Code is amended to read:

1340. The California Mexican American Veterans' Memorial Beautification and Enhancement Account is hereby created in the General Fund. All funds received by the Department of ~~Veterans Affairs~~ *General Services* under Chapter 7 (commencing with Section 1330) shall be deposited in the account for the design and construction of the California Mexican American Veterans' Memorial as specified in Section 1341.

SEC. 1175. Section 1341 of the Military and Veterans Code is amended to read:

1341. (a) Notwithstanding Section 13340 of the Government Code, all funds deposited in the California Mexican American Veterans' Memorial Beautification and Enhancement Account established pursuant to Section 1340 are hereby continuously appropriated, without regard to fiscal year, to the Department of ~~Veterans Affairs~~ *General Services* for the beautification and enhancement of an existing memorial and surrounding grounds at the State Capitol pursuant to Chapter 7 (commencing with Section 1330).

(b) On July 1, 2014, any moneys remaining in the California Mexican American Veterans' Memorial Beautification and Enhancement Account shall revert to the General Fund.

SEC. 1176. Section 1500 is added to the Military and Veterans Code, to read:

1500. Any reference to the Governor's Commission on State Veterans Cemeteries shall mean the Department of Veterans Affairs.

SEC. 1177. Section 10340 of the Public Contract Code is amended to read:

10340. (a) Except as provided by subdivision (b), state agencies shall secure at least three competitive bids or proposals for each contract.

(b) Three competitive bids or proposals are not required in any of the following cases:

(1) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.

(2) When the agency awarding the contract has advertised the contract in the California State Contracts Register and has solicited all potential contractors known to the agency, but has received less than three bids or proposals.

(3) The contract is with another state agency, a local governmental entity, an auxiliary organization of the California State University, an auxiliary organization of a California community college, a foundation organized to support the Board of Governors of the California Community Colleges, or an auxiliary organization of the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid* established pursuant to Section 69522 of the Education Code. These contracts, however, may not be used to circumvent the competitive bidding requirements of this article.

(4) The contract meets the conditions prescribed by the department pursuant to subdivision (a) of Section 10348.

(5) The contract has been awarded without advertising and calling for bids pursuant to Section 19404 of the Welfare and Institutions Code.

(6) Contracts entered into pursuant to Section 14838.5 of the Government Code.

(7) Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations.

(c) Any agency which has received less than three bids or proposals on a contract shall document, in a manner prescribed by the department, the names and addresses of the firms or individuals it solicited for bids or proposals.

SEC. 1178. Section 12301 of the Public Contract Code is amended to read:

12301. The following definitions govern the interpretation of this chapter:

(a) "Department" means the Department of General Services.

(b) ~~"Board" means~~ *Any reference to "board" in this chapter or to the "California Integrated Waste Management Board" in any law or regulation shall be deemed to be a reference to* the California ~~Integrated Waste Management Board, as defined~~

~~pursuant to Section 40110 of the Public Resources Code~~ *Environmental Protection Agency*.

(c) "Recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials. "Postconsumer material" means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

(d) (1) Except as provided in paragraph (2), "recycled product" means all materials, goods, and supplies, excluding paper products, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. "Postconsumer material" means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. "Secondary material" means fragments of

finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.

(2) "Recycled product" also means other flat rolled steel products no less than 25 percent of the total weight of which consists of secondary and postconsumer material, with not less than 10 percent of total weight consisting of postconsumer material. Products made with flat rolled steel meeting these content percentages include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies.

SEC. 1179. Article 2 (commencing with Section 660) of Chapter 2 of Division 1 of the Public Resources Code is repealed.

SEC. 1180. Article 2 (commencing with Section 660) is added to Chapter 2 of Division 1 of the Public Resources Code, to read:

Article 2. Mining and Geology

660. (a) The State Mining and Geology Board is hereby abolished.

(b) The department or the director, as appropriate, succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the State Mining and Geology Board.

(c) Any reference in law to the State Mining and Geology Board shall be construed as a reference to the department or the director, as applicable.

(d) All officers and employees of the State Mining and Geology Board who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(e) The department or director, as appropriate, shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property,

real or personal, connected with the administration of, or held for, the benefit or use of the State Mining and Geology Board.

(f) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred pursuant to this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(g) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this section.

(h) The unexpended balance of funds that were available for use by the State Mining and Geology Board in carrying out functions transferred to the department under this section shall be made available for the use of the department.

662. As used in this article, "division" means the Division of Mines and Geology of the department.

664. The director shall appoint the State Geologist, who shall either be registered in compliance with the Geologist and Geophysicist Act at least one year from the date of appointment, or the Board of Geologists and Geophysicists may, upon the review of academic and professional experience, grant registration. The State Geologist shall possess general knowledge of mineral resources, structural geology, seismology, engineering geology, and related disciplines in science and engineering, and the reclamation of mined lands and waters. The State Geologist shall advise the director regarding technical, scientific, and engineering issues, including the scientific quality of the division's products and activities.

667. The director may authorize the State Geologist to exercise his or her power to appoint employees of the division in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The director may authorize the State Geologist, or any employee of the division, to exercise any power granted to, or perform any duty imposed upon, the director by the State Civil Service Act.

SEC. 1181. Section 700 of the Public Resources Code is amended to read:

700. As used in this chapter:

~~(a) "Board" means the State Board of Forestry and Fire Protection.~~

~~(b)~~

(a) "Department" means the Department of Forestry and Fire Protection.

~~(c)~~

(b) "Director" means the Director of Forestry and Fire Protection.

SEC. 1182. The heading of Article 2 (commencing with Section 730) of Chapter 2.5 of Division 1 of the Public Resources Code is amended to read:

Article 2. ~~State Board of~~ Forestry and Fire Protection

SEC. 1183. Section 730 of the Public Resources Code is repealed.

~~730. (a) There is in the department a State Board of Forestry and Fire Protection consisting of nine members appointed by the Governor, subject to confirmation by the Senate.~~

~~(b) (1) On and after January 1, 1998, wherever any reference is made in any law to the State Board of Forestry in the department, the reference shall be deemed to be a reference to, and to mean, the State Board of Forestry and Fire Protection.~~

~~(2) No existing supplies, forms, signs, or logos shall be destroyed or changed to reflect the name change, and they shall continue to be used until exhausted or unserviceable.~~

SEC. 1184. Section 730 is added to the Public Resources Code, to read:

730. (a) The State Board of Forestry and Fire Protection is hereby abolished.

(b) The department or the director, as appropriate, succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the State Board of Forestry and Fire Protection.

(c) Any reference in law to the State Board of Forestry and Fire Protection shall be construed as a reference to the department or the director, as applicable.

(d) All officers and employees of the State Board of Forestry and Fire Protection who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(e) The department or director, as appropriate, shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the State Board of Forestry and Fire Protection.

(f) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred pursuant to this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(g) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this section.

(h) The unexpended balance of funds that were available for use by the State Board of Forestry and Fire Protection in carrying out functions transferred to the department under this section shall be made available for the use of the department.

SEC. 1185. Section 731 of the Public Resources Code is repealed.

~~731. All members of the board shall be appointed and shall be selected and approved for appointment on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience with, problems relating to watershed management (including hydrology and soil science),~~

~~forest management practices, fish and wildlife, range management, forest economics, or land use planning. Five members shall be selected from the general public, three members shall be selected from the forest products industry, and one member shall be selected from the range livestock industry. At no time shall a majority of the members, nor any of the members selected from the general public, be persons with a direct personal financial interest, within the meaning of Section 1120 of the Government Code, in timberlands. All members of the board shall represent the general public interest.~~

SEC. 1186. Section 731.1 of the Public Resources Code is repealed.

~~731.1. The Legislature declares that some individuals appointed as members of the State Board of Forestry and Fire Protection are required to be chosen from backgrounds in the forest products and range livestock industries in order to represent and further the interests of those industries and that this representation and furtherance serves the general public interest, as specified in Section 731. Accordingly, the Legislature finds that, for purposes of persons who hold that office, the forest products and the range livestock industries are tantamount to and constitute the public generally within the meaning of Section 87103 of the Government Code in those decisions affecting the forest products or range livestock industries, unless the results of their actions taken as board members have a material financial effect on them distinguishable from their effect on other members of their respective industries generally.~~

SEC. 1187. Section 732 of the Public Resources Code is repealed.

~~732. Each member of the board shall hold office for four years from the expiration of the term of his or her predecessor. Vacancies shall be immediately filled by the Governor.~~

SEC. 1188. Section 735 of the Public Resources Code is repealed.

~~735. Each member of the board shall receive compensation for each day during which the member engaged in the performance of official duties, except that the total number of days for which a member, other than the chairperson, may be compensated shall not exceed 80 days in any one fiscal year. The chairperson of the board may receive compensation for not more than 100 days in~~

~~any one fiscal year. In addition to the compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.~~

SEC. 1189. Section 736 of the Public Resources Code is repealed.

~~736. The board shall maintain its headquarters in Sacramento and shall hold meetings at such times and at such places as shall be determined by it. Five members of the board shall constitute a quorum for the purpose of transacting any business of the board. A majority affirmative vote of the total authorized membership of the board shall be necessary to adopt, amend, or repeal rules and regulations of the board adopted pursuant to Article 4 (commencing with Section 4551) of Chapter 8 of Part 2 of Division 4. All meetings of the board shall be open to the public.~~

SEC. 1190. Section 737 of the Public Resources Code is repealed.

~~737. (a) No member of the board shall participate in any board action pursuant to Article 8 (commencing with Section 4601) or Article 9 (commencing with Section 4621) of Chapter 8 of Part 2 of Division 4 which involves himself or any person with which he is connected as a director, officer, or employee, or in which he has a direct personal financial interest within the meaning of Section 1120 of the Government Code.~~

~~(b) Upon request of any person or on his own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.~~

SEC. 1191. Section 738 of the Public Resources Code is repealed.

~~738. The Governor shall designate the chairman of the board from among the members of the board. The person designated as the chairman shall hold such office at the pleasure of the Governor. The board shall annually elect a vice chairman from among its members.~~

SEC. 1192. Section 739 of the Public Resources Code is repealed.

~~739. The board may appoint an executive officer who shall be exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.~~

SEC. 1193. Section 740 of the Public Resources Code is amended to read:

740. The ~~board~~ *department* shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal land matters pertaining to forestry, and the protection of the state's interests in forest resources on private lands, and shall determine, establish, and maintain an adequate forest policy. ~~General policies for guidance of the department shall be determined by the board.~~

SEC. 1194. Section 741 of the Public Resources Code is amended to read:

741. (a) The ~~board~~ *department* shall appoint a Range Management Advisory Committee and shall consult with the advisory committee on rangeland resource issues under consideration by the ~~board~~ *department*.

(b) The advisory committee shall consist of 11 members, who shall be selected as follows:

(1) Two members of the general public, who have an interest and background in the conservation of range resources or special knowledge in the protection of range and brushland soils and watersheds.

(2) One member nominated by the Watershed Fire Council of Southern California.

(3) One member nominated by the California Association of Resource Conservation Districts.

(4) Seven members nominated by organizations representing owners of range and brushlands.

(c) Members of the advisory committee shall serve without compensation.

(d) The Secretary of the Resources Agency, the Secretary for Environmental Protection, and the Secretary of Food and Agriculture shall notify the advisory committee of, and are encouraged to consult with the advisory committee on, rangeland resource issues that are under consideration by the Resources

Agency, the California Environmental Protection Agency, and the Department of Food and Agriculture, respectively.

SEC. 1195. Section 743 of the Public Resources Code is amended to read:

743. State agencies shall submit to the ~~board~~ *department* plans for, and the results of, all investigations that relate to, or have an effect upon, forest resource utilization for review and comment. The ~~board~~ *department* may, at its expense, contract with any state or local agency to investigate and report on any technical factors involved in forest management; provided, that the burden, including costs, of ~~such~~ *those* reports shall bear a reasonable relationship to the needs for the reports and the benefits to be obtained from ~~such~~ *the* reports.

SEC. 1196. Section 745 of the Public Resources Code is amended to read:

745. The ~~board~~ *department* shall implement a public information program on matters involving forest management and shall maintain an information file on forest management research and other pertinent matters.

SEC. 1197. Section 759 of the Public Resources Code is amended to read:

759. The ~~board~~ *department* may ~~by regulation~~ adopt ~~such rules and~~ *those* regulations pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, ~~as~~ *that* it determines are reasonably necessary to enable it to carry ~~into effect the provisions of~~ *out* this article.

SEC. 1198. Section 760 of the Public Resources Code is amended to read:

760. The ~~board~~ *department* shall consider matters pertaining to the registration of professional foresters at least once every six months at regular meetings and may, as necessary, meet solely for the purpose of considering matters to carry out ~~the provisions of~~ this article.

SEC. 1199. Section 760.5 of the Public Resources Code is repealed.

~~760.5. The board may hire the clerical and secretarial employees, technical personnel, and other staff who are necessary and budgeted to properly assist the work of the board in carrying out the purposes of this article. This staff personnel shall be subject to the relevant system and procedures of the state civil service.~~

~~The provisions of the State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code shall apply to that personnel. The executive officer shall be an employee exempt from civil service.~~

SEC. 1200. Section 762 of the Public Resources Code is amended to read:

762. The ~~board~~ *department* may by regulation provide for the issuance of certificates of specialization in ~~such~~ *those* fields of specialization ~~as~~ *that* the ~~board~~ *department* may by regulation establish.

SEC. 1201. Section 763 of the Public Resources Code is amended to read:

763. (a) The ~~board~~ *director* shall establish an examining committee of at least seven members composed of the following, who shall be appointed by the ~~board~~ *director* and serve at ~~its~~ *his or her* pleasure:

(1) Two public members ~~with one selected from the membership of the board~~.

(2) At least four professional foresters in good standing representing a broad cross section of employment and expertise.

(3) At least one certified specialist registered pursuant to Section 772 in good standing. If a certified specialist is not available to serve on the committee, this position shall be replaced by an additional professional forester in good standing.

(b) The examining committee shall do all of the following:

(1) Examine all applicants for registration as professional foresters and for specialty certificates.

(2) Recommend to the ~~board~~ *department* applicants for the license of professional forester and applicants for specialty certificates who fulfill the requirements of this article.

(3) Review complaints, which review may include independent investigations or expert witness evaluations, and make disciplinary recommendations to the ~~board~~ *department*.

(4) Establish ad hoc committees as needed with representatives of certified specialists.

(5) Recommend to the ~~board~~ *department* whether an independent certification program qualifies for recognition under Section 754.

(6) Recommend adoption of the rules and regulations or changes in rules and regulations which may be needed to effect this article.

SEC. 1202. Section 765 of the Public Resources Code is amended to read:

765. The examining committee shall adhere to the rules and regulations of the ~~board~~ *department*. Any applicant for a license pursuant to this article who contends that he *or she* has been aggrieved by any action taken by the examining committee with respect to his *or her* qualifications may appeal to the ~~board~~ *department* in accordance with rules or regulations prescribed by the ~~board~~ *department*. ~~The board on such appeal~~ *On the appeal, the department* may administer an oral or written examination to the applicant as an aid in determining whether the applicant is qualified under the terms of this article.

SEC. 1203. Section 767 of the Public Resources Code is amended to read:

767. An applicant for a license pursuant to this article shall apply to the ~~board~~ *department*. ~~Such~~ *The* application shall be accompanied by the payment of a fee in an amount fixed by ~~the provisions of~~ this article.

SEC. 1204. Section 768 of the Public Resources Code is amended to read:

768. The ~~board~~ *department* shall require an applicant to demonstrate ~~such~~ *the* degree of experience and ~~such~~ general knowledge of the profession of forestry ~~as~~ *that* the ~~board~~ *department* deems necessary for the protection of the public.

SEC. 1205. Section 769 of the Public Resources Code is amended to read:

769. An applicant shall meet all of the following qualifications:

(a) Be of good moral character and have a good reputation for honesty and integrity.

(b) Furnish evidence of having completed seven years of experience in forestry work.

~~Possession~~

(1) Possession of a degree of bachelor of science, or equivalent degree as determined by the ~~board~~ *department*, with a major in forestry, shall be deemed equivalent to four years of experience in the actual practice of forestry work.

~~At~~

(2) At least three of the seven years of experience shall include having charge of forestry work, or forestry work under the supervision of a person registered, or qualified for, but exempt

from, registration under ~~the provision of~~ this article. Work completed prior to July 1, 1973, shall qualify if it was under the supervision of a qualified forester, as defined in Section 754. The award of a master of forestry degree shall be acceptable as evidence of one year of ~~such~~ *the* qualifying experience.

(c) ~~Has~~ *Have* successfully completed ~~such~~ *the* examination or examinations ~~as are~~ prescribed by the ~~board~~ *department*.

SEC. 1206. Section 770 of the Public Resources Code is amended to read:

770. (a) Examinations shall be given by the ~~board~~ *department* as often as it is deemed necessary, but at least every six months.

(b) The examination may consist of both written and oral portions. A grade of 75 percent shall be necessary for successful completion of the examination.

SEC. 1207. Section 772 of the Public Resources Code is amended to read:

772. Instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry. Nothing in this article shall authorize the ~~board~~ *department* to certify or otherwise license wildlife biologists, fisheries biologists, botanists, ecological restorationists, stream restorationists, hydrologists, or geologists. Registration in a specialty area does not prohibit a professional forester from providing services within that professional forester's area of expertise. Any public agency or professional society may submit for ~~board~~ *department* recognition its independent certification program as full qualification without examination for the ~~board's~~ *department's* certificate of specialization. That certification as a specialist shall be granted provided the ~~board~~ *department* determines the program fully protects the public interest in that area of practice encompassed by the program. Those certificants are subject to ~~board~~ registration *by the department* and discipline with review by that specialty.

SEC. 1208. Section 774 of the Public Resources Code is amended to read:

774. (a) Issuance of a license may be denied if sufficient evidence is received by the ~~board~~ *department* of the commission or doing by the applicant of any act which, if committed or done by a licensee, would be grounds for the suspension or revocation of his *or her* license.

(b) In any decision denying an application, the ~~board~~ *department* may provide that it will accept no future application from the applicant until he *or she* complies with specified conditions. No condition may be required by the ~~board~~ *department* that is not just and reasonable.

SEC. 1209. Section 775 of the Public Resources Code is amended to read:

775. The ~~board~~ *department* may upon its own motion, and shall upon the verified complaint in writing of any person, cause investigation to be made of the actions of any person licensed pursuant to this article, and may temporarily suspend or permanently revoke the license of any person who is guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary action.

SEC. 1210. Section 776 of the Public Resources Code is amended to read:

776. Any accusation against a registrant or a certificant shall be filed within five years after the act or omission alleged as the ground for disciplinary action. The proceedings under this article 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 ~~board~~ *department* has all the powers granted in that chapter.

SEC. 1211. Section 777 of the Public Resources Code is amended to read:

777. *(a)* If the ~~board~~ *department* finds against the registrant, the ~~board~~ *department*, in its decision, may terminate all operations of the registrant during the period fixed by the decision, except those operations the ~~board~~ *department* determines that the person may complete. The ~~board~~ *department* may impose upon the registrant compliance with specific conditions as may be just in connection with his or her operations, and may further provide that, until the conditions are complied with, no application for restoration of the suspended or revoked registration shall be accepted by the ~~board~~ *department*.

~~The board~~

(b) The department shall provide public notice of the suspension or revocation pursuant to this section.

~~The board~~

(c) The department may issue a private reprimand when a registrant commits a failure of responsibility ~~which~~ *that* warrants a lesser level of discipline than suspension. The issuance of a private reprimand does not prohibit the ~~board~~ *department* from using the subject of the private reprimand in an accusation, within the statute of limitations, seeking suspension or revocation resulting from a subsequent complaint, to establish a pattern of lesser failures of professional responsibility. If the evidence is insufficient to support a private reprimand or an accusation, the executive officer for registration may send a letter expressing the examining committee's concerns.

SEC. 1212. Section 778 of the Public Resources Code is amended to read:

778. A registrant or certificant is subject to disciplinary action who:

(a) Has been convicted of a felony substantially related to the qualifications, functions, or duties of a registered professional forester. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the ~~board~~ *department* is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(b) Has been found guilty ~~by the board~~ of any deceit, misrepresentation, fraud, material misstatement of fact, incompetence, or gross negligence in his or her practice.

(c) Has been guilty of any fraud or deceit in obtaining his or her registration or certification.

(d) Aids or abets any person in the violation of any provision of this article.

(e) Fails in any material respect to comply with the provisions of this article.

SEC. 1213. Section 778.5 of the Public Resources Code is amended to read:

778.5. The ~~board~~ *department* shall develop criteria to determine whether a felony is substantially related to the qualifications, functions, or duties of a registered professional forester in order

to aid it when considering the denial, suspension, or revocation of a license.

SEC. 1214. Section 782 of the Public Resources Code is amended to read:

782. The ~~board~~ *department* shall establish by regulation the amount of fees within the following ranges, and based on a determination by the ~~board~~ *department* of the amount of revenues reasonably necessary to carry out this article:

(a) The application fee for registration or for each certificate of specialization shall be not less than fifty dollars ($50) and not more than two hundred dollars ($200).

(b) The registration fee and certificate of specialization fees and renewal fees shall be not less than twenty-five dollars ($25) and not more than two hundred fifty dollars ($250) per year. Every licensed person shall, on or before July 1 of the year of expiration, pay the renewal fee.

(c) The fee for the issuance of a duplicate display registration document or certificate of specialization shall be not less than five dollars ($5) and not more than twenty-five dollars ($25).

(d) The penalty fee for failure to apply for a renewal shall be not less than ten dollars ($10) and not more than twenty-five dollars ($25) for each month of delinquency. In return for the payment of the renewal fee and any applicable late fees, a renewal registration card shall be issued.

(e) A registrant or certificant may, upon written notice to the board, be granted a withdrawal period without penalty not to exceed five years. A reinstatement application shall be accompanied with a fee of not less than fifteen dollars ($15) and not more than fifty dollars ($50), for registration or each certificate of specialization.

SEC. 1215. Section 783 of the Public Resources Code is amended to read:

783. In case any person defaults in payment of the renewal fee, his or her registration may be revoked by the ~~board~~ *department* on 60 ~~days~~ *days'* notice in writing from the ~~board~~ *department*, unless within this time the fee is paid, together with penalty, not exceeding the amount fixed by this article. Upon payment of the fee and penalty within one year, the ~~board~~ *department* shall reinstate the person's registration.

SEC. 1216. Section 2008 of the Public Resources Code is amended to read:

2008. "Board" means the ~~State Mining and Geology Board~~ *Department of Conservation*.

SEC. 1217. Section 2630 of the Public Resources Code is amended to read:

2630. In carrying out the provisions of this chapter, the State Geologist and the ~~board~~ *Department of Conservation* shall be advised by the ~~Seismic Safety Commission~~ *Department of General Services*.

SEC. 1218. Section 2693 of the Public Resources Code is amended to read:

2693. As used in this chapter:

(a) "City" and "county" includes the City and County of San Francisco.

(b) "Geotechnical report" means a report prepared by a certified engineering geologist or a civil engineer practicing within the area of his or her competence, which identifies seismic hazards and recommends mitigation measures to reduce the risk of seismic hazard to acceptable levels.

(c) "Mitigation" means those measures that are consistent with established practice and that will reduce seismic risk to acceptable levels.

(d) "Project" has the same meaning as in Chapter 7.5 (commencing with Section 2621), except as follows:

(1) A single-family dwelling otherwise qualifying as a project may be exempted by the city or county having jurisdiction of the project.

(2) "Project" does not include alterations or additions to any structure within a seismic hazard zone which do not exceed either 50 percent of the value of the structure or 50 percent of the existing floor area of the structure.

(e) "Commission" means the ~~Seismic Safety Commission~~ *Department of General Services*.

(f) "Board" means the ~~State Mining and Geology Board~~ *Department of Conservation*.

SEC. 1219. Section 2701 of the Public Resources Code is amended to read:

2701. The division shall organize and monitor the program with the advice of the ~~Seismic Safety Commission~~ *Department of General Services*.

SEC. 1220. Section 2702 of the Public Resources Code is amended to read:

2702. The division shall purchase, install, and maintain instruments in representative structures and geologic environments throughout the state, and shall process the data obtained from such instruments resulting from periodic earthquakes, as deemed necessary and desirable by the ~~Seismic Safety Commission~~ *Department of General Services*.

SEC. 1221. Section 2707 of the Public Resources Code is amended to read:

2707. The division, upon advice of the ~~Seismic Safety Commission~~ *Department of General Services*, whenever it determines that an adequate instrumentation program has been achieved, may reduce the fee levied against building permits as provided in Section 2705 to a level sufficient to maintain the program established pursuant to this chapter.

SEC. 1222. Section 2709.1 of the Public Resources Code is amended to read:

2709.1. (a) No strong-motion instrumentation shall be installed pursuant to this chapter in the structural types identified in subdivision (b) unless funds proportionate to the construction value as called for under Section 2705 are received from organizations or entities representing these structural types, or the instrumentation is specifically called for by the ~~Seismic Safety Commission~~ *Department of General Services* in urgency situations.

(b) The structural types subject to this section include all of the following:

(1) Hospitals.

(2) Dams.

(3) Bridges.

(4) Schools.

(5) Powerplants.

(c) The Strong-Motion Instrumentation and Seismic Hazards Mapping Fund may accept funds from sources other than the permit fees identified in this chapter. The priority of installations performed under this chapter shall be determined by the ~~Seismic Safety Commission~~ *Department of General Services*.

SEC. 1223. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or the immediate excavation or grading of lands affected by a flood or natural disaster for the purpose of restoring those lands to their prior condition.

(b) Onsite excavation and onsite earthmoving activities that are an integral and necessary part of a construction project and that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements associated with those structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 (commencing with Section 21000).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location, and the total surface area disturbed is less than one acre.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board, as defined by Section 2001, determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources ~~or the Reclamation Board~~ for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the ~~Reclamation Board~~ *Department of Water Resources* for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date

specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources ~~or the Reclamation Board~~ to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources ~~or the Reclamation Board~~ on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources ~~or the Reclamation Board~~, is otherwise not in compliance with this chapter.

(j) (1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

(k) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

SEC. 1224. Section 2802 of the Public Resources Code is amended to read:

2802. (a) The department shall develop jointly with the United States Geological Survey a prototype earthquake prediction system along the central San Andreas fault near the City of Parkfield.

(b) The system shall include a dense cluster of seismic and crustal deformation instrumentation capable of monitoring geophysical and geochemical phenomena associated with earthquakes in the region. These data shall be analyzed continuously to determine if precursory anomalies can be identified with sufficient certainty to make a short-term prediction. The department shall not duplicate any of the ongoing efforts of the United States Geological Survey or any public or private college or university in the development of this system.

(c) In meeting its obligations under this chapter, the department shall develop, in cooperation with the United States Geological Survey, a plan for completion of the Parkfield instrumentation network. The plan shall provide for all of the following:

(1) Augmentation of monitoring instruments with the goal of detecting precursors of the Parkfield characteristic earthquake.

(2) Operation by the department of a remote data review station in Sacramento which will provide state scientists with data from the Parkfield prototype earthquake prediction system and other data, as required, to advise the Office of Emergency Services of the occurrence of precursors and verification of the predicted event.

(3) Advising the United States Geological Survey, the Office of Emergency Services, the ~~Seismic Safety Commission~~ *Department of General Services*, and the California Earthquake Prediction Evaluation Council, regarding the department's review of Parkfield data.

(d) On January 1, 1987, the department shall issue a progress report to the Governor, the Legislature, and the ~~Seismic Safety Commission~~ *Department of General Services*. ~~An~~ *Notwithstanding Section 7550.5 of the Government Code, an* annual progress report shall be made each year thereafter. The project shall terminate on January 1, 1992, unless extended by statute.

SEC. 1225. Section 2803 of the Public Resources Code is amended to read:

2803. (a) Concurrently with the development of the Parkfield prototype earthquake prediction system, the Office of Emergency Services, in consultation with the California Earthquake Prediction Evaluation Council, shall develop a comprehensive emergency response plan for short-term earthquake predictions. The plan shall include all of the following:

(1) A method of peer review involving the California Earthquake Prediction Evaluation Council to evaluate the validity of short-term earthquake predictions and to develop guidelines for initiating state action in response to anomalous geochemical and geophysical phenomena.

(2) A means of rapidly activating governmental response to a predicted event.

(3) Plans for mitigating earthquake losses to vulnerable populations, including, but not limited to, drawdown of impoundment levels behind dams, positioning of emergency equipment in safe areas, and mobilization of firefighting, law enforcement, rescue, and medical personnel.

(4) A public warning system.

(5) Strategies for dealing with earthquake predictions that fail to occur (false alarms) and the failure of an earthquake prediction system to forecast a damaging event.

(b) The Office of Emergency Services shall consult with the department, the ~~Seismic Safety Commission~~ *Department of General Services*, the United States Geological Survey, and the Federal Emergency Management Agency in the development of the plan.

SEC. 1226. Section 2804 of the Public Resources Code is amended to read:

2804. The department and the ~~Seismic Safety Commission~~ *Department of General Services* may solicit and receive gifts and grants from other public and private agencies for the state's share of costs under this chapter.

SEC. 1227. Section 2806 of the Public Resources Code is amended to read:

2806. The Legislature hereby finds and declares as follows:

(a) California has recently experienced and will continue to experience in the foreseeable future damaging earthquakes of

moderate to great magnitude. Efforts have been needed to increase the awareness of earthquake hazards through education so that future losses of life, injuries, loss of property, and social disruption will be minimized when those events occur.

(b) Because of a lack of any state or local earthquake safety education program, it has been necessary for the state to assume leadership through the policy and guidance of the ~~Seismic Safety Commission~~ *Department of General Services* to develop and test earthquake safety programs which provide informational material to schools and the general public for minimizing potential disruption and loss of life.

(c) Since the pilot earthquake safety education and preparedness programs developed under the California Earthquake Education Act of 1981 have been tested, their effectiveness analyzed, and they have been deemed successful by the ~~Seismic Safety Commission~~ *Department of General Services*, the Legislature believes that it is appropriate, as stated by the Earthquake Education Act of 1981, that those programs be distributed and implemented throughout the earthquake-prone areas of the state.

(d) It is necessary that funds be appropriated to the ~~Seismic Safety Commission~~ *Department of General Services* from the General Fund for the purpose of expanding the earthquake safety program for statewide implementation over the next three years which, when completed, will constitute for the first time in history, a comprehensive, statewide self-supporting earthquake safety education program.

SEC. 1228. Section 2807 of the Public Resources Code is amended to read:

2807. (a) There is hereby established a project for the implementation of a statewide program of earthquake safety education and preparedness entitled the California Earthquake Education Project (CALEEP). The ~~Seismic Safety Commission~~ *Department of General Services* may contract with the University of California to carry out the project. The project shall focus on identifying state and local leadership interested in using the CALEEP materials, disseminating those materials, and utilizing the materials.

(b) The project shall develop a relationship with the State Department of Education, interested teacher's education computer centers statewide, and interested counties and school districts.

SEC. 1229. Section 2811 of the Public Resources Code is amended to read:

2811. As used in this chapter:

(a) "Commission" ~~means the Seismic Safety Commission~~ *shall be deemed to refer to the Department of General Services*.

(b) "Local jurisdiction" means a city, county, or district.

(c) "Office" means the Office of Emergency Services.

(d) "Preparedness" means long-term preearthquake hazard mitigation, reconstruction, and recovery planning and preparation for emergency response.

SEC. 1230. Section 3460 of the Public Resources Code is amended to read:

3460. (a) As used in this article:

(1) "Used oil" has the same meaning as defined in subdivision (a) of Section 25250.1 of the Health and Safety Code.

(2) "Recycle" means to prepare used oil for reuse as a petroleum product by refining, reclaiming, reprocessing, or other means, in order to attain the standards specified by paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code. "Recycle" does not include the application of used oil to roads for the purpose of dust control or to the ground for the purpose of weed abatement. "Recycle" does not include incineration or burning of used oil as a fuel.

(3) "Board" means the California ~~Integrated Waste Management Board~~ *Environmental Protection Agency*.

(4) "Person" means any individual, private or public corporation, partnership, limited liability company, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

(b) The amendments made to this section by Chapter 1123 of the Statutes of 1987 do not affect the validity of any existing regulations of the Department of Toxic Substances Control relating to the management of used oil blended or diluted with virgin oil or any partially refined oil product as a hazardous waste, and do not affect the authority of the Department of Toxic Substances Control to prohibit blending or diluting used oil with an uncontaminated product to achieve the standards for recycled oil, as specified in paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

SEC. 1231. Section 3477.1 of the Public Resources Code is amended to read:

3477.1. "Board" means the California ~~Integrated Waste Management Board~~ *Environmental Protection Agency*.

SEC. 1232. Section 4002 of the Public Resources Code is amended to read:

4002. "Board" means the ~~State Board~~ *Department* of Forestry and Fire Protection.

SEC. 1233. Section 4521.3 of the Public Resources Code is amended to read:

4521.3. "Board" means the ~~State Board~~ *Department* of Forestry and Fire Protection.

SEC. 1234. Section 4662 of the Public Resources Code is amended to read:

4662. The department is responsible for the establishment and development of the Soquel Demonstration State Forest and for ongoing maintenance and operations. The director shall appoint an advisory committee to assist the department in planning future management of the forest. The advisory committee shall include representatives of the Santa Cruz County Board of Supervisors, the Department of Parks and Recreation, the ~~State Board~~ *Department* of Forestry and Fire Protection, the Forest of Nisene Marks Advisory Committee, and the Department of Fish and Game.

SEC. 1235. Section 4789.2 of the Public Resources Code is amended to read:

4789.2. As used in this chapter:

(a) "Board" means the ~~State Board~~ *Department* of Forestry and Fire Protection.

(b) "Resources Planning Act" means the Forest and Rangelands Renewable Resources Planning Act of 1974 (16 U.S.C. Secs. 1601 to 1610, incl.).

(c) "Assessment" means the forest resource assessment and analysis developed pursuant to Section 4789.3.

(d) "Director" means the Director of Forestry and Fire Protection.

(e) "Forest and rangeland resources" means those uses and values associated with, attainable from, or closely tied to, forest and rangelands, including fish, range, recreation, timber, watershed, wilderness, and wildlife.

(f) “Forest land” means timberland defined pursuant to subdivision (g), and other lands that have been withdrawn from timber production, such as units of the state park system, national parks, and wilderness areas.

(g) “Timberland” means land on which is growing a significant stand of trees of commercial species, or potential commercial species, either in public or private ownership or that is generally capable of maintaining a stand of trees in perpetuity and not withdrawn or otherwise devoted to uses other than timber production.

(h) “Timber” means wood fiber of commercial or potential commercial species growing on timberland as defined in subdivision (g).

(i) “Rangeland” means land on which the existing vegetation, whether growing naturally or through management, is suitable for grazing or browsing of domestic livestock for at least a portion of the year. Rangeland includes any natural grasslands, savannas, shrublands (including chaparral), deserts, wetlands, and woodlands (including Eastside ponderosa pine, pinyon, juniper, and oak) which support a vegetative cover of native grasses, grasslike plants, forbs, shrubs, or naturalized species.

SEC. 1236. Section 5070.3 of the Public Resources Code is amended to read:

5070.3. Unless the context otherwise requires, the following definitions shall govern construction of this article:

(a) “Affirmative access area” means an area of already existing disability access improvements along a heritage corridor.

~~(b) “Committee” means the California Recreational Trails Committee.~~

(b) “Department” means the Department of Parks and Recreation.

(c) “Heritage corridor” means a regional, state, or nationwide alignment of historical, natural, or conservation education significance, with roads, state and other parks, greenways, or parallel recreational trails, intended to have guidebooks, signs, and other features to enable self-guiding tourism, and environmental conservation education along most of its length and of all or some of the facilities open to the public along its length, with an emphasis on facilities whose physical and interpretive accessibility meet “whole-access” goals.

(d) "Heritage corridors access map" means a 1:500,000 publicly distributed map combining listings and locations of parks, trails, museums, and roadside historical and natural access points, including disability and interpretive access data, along designated heritage corridors.

(e) "Plan" means the California Recreational Trails System Plan.

(f) "System" means the California Recreational Trails System.

(g) "Whole-access" means a general level of trail and human accessibility that includes not only disabled persons but all others making up the "easy-access" majority of the public. This level of accessibility may also benefit from amplified concepts of natural terrain accessibility and cooperation with volunteer and nonprofit accessibility groups.

SEC. 1237. Section 5073.5 of the Public Resources Code is repealed.

~~5073.5. The Governor shall establish a California Recreational Trails Committee to advise the director in the development and coordination of the system. The committee shall consist of seven members appointed by the Governor. Two members shall be selected from the northern, two members from the southern, and two members from the central portions of the state, and one member shall be selected at large. Members shall be selected from lists submitted by private organizations which have a demonstrated interest in the establishment of recreation trails. The chairman of the committee shall be elected by the members from their membership.~~

SEC. 1238. Section 5073.5 is added to the Public Resources Code, to read:

5073.5. (a) The California Recreational Trails Committee is hereby abolished.

(b) The department or the director, as appropriate, succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the California Recreational Trails Committee.

(c) Any reference in law to the California Recreational Trails Committee shall be construed as a reference to the department or the director, as applicable.

(d) All officers and employees of the California Recreational Trails Committee who are serving in the state civil service, other

than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(e) The department or director, as appropriate, shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the California Recreational Trails Committee.

(f) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred pursuant to this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(g) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this section.

(h) The unexpended balance of funds that were available for use by the California Recreational Trails Committee in carrying out functions transferred to the department under this section shall be made available for the use of the department.

SEC. 1239. Section 5073.7 of the Public Resources Code is repealed.

~~5073.7. The terms of the members of the committee shall be four years, except that such members first appointed to the committee shall classify themselves by lot so that the term of three members shall expire January 15, 1976, the term of two members shall expire January 15, 1977, and the term of two members shall expire January 15, 1978.~~

~~Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses,~~

~~including traveling expenses, incurred in the performance of their duties.~~

SEC. 1240. Section 5074 of the Public Resources Code is amended to read:

5074. The ~~committee~~ *department* shall have the following powers and duties:

(a) Coordinate trail planning and development among cities, counties, and districts. In carrying out this responsibility, the ~~committee~~ *department* shall review records of easements and other interests in lands which are available for recreational trail usage, including public lands, utility easements, other rights-of-way, gifts, or surplus public lands which may be adaptable for such use, and shall advise the director in the development of standards for trail construction so that uniform construction standards may be available to cities, counties, and districts.

~~(b) Advise the director in the preparation and maintenance of the plan.~~

~~(c)~~

(b) Study the problems and opportunities presented by the use of private property for recreational trail use and advise the director on measures to mitigate undesirable aspects of ~~such~~ *that* usage.

SEC. 1241. Section 5093.52 of the Public Resources Code is amended to read:

5093.52. As used in this chapter, the following terms have the following meaning:

(a) "Secretary" means the Secretary of the Resources Agency.

(b) "Resources Agency" means the Secretary of the Resources Agency and any constituent units of the Resources Agency that the secretary determines to be necessary to accomplish the purposes of this chapter.

(c) "River" means the water, bed, and shoreline of rivers, streams, channels, lakes, bays, estuaries, marshes, wetlands, and lagoons, up to the first line of permanently established riparian vegetation.

(d) "Free-flowing" means existing or flowing without artificial impoundment, diversion, or other modification of the river. The presence of low dams, diversion works, and other minor structures does not automatically bar a river's inclusion within the system. However, this subdivision does not authorize or encourage future construction of those structures on any component of the system.

(e) "System" means the California Wild and Scenic Rivers System.

(f) "Land use regulation" means the regulation by any state or local governmental entity, agency, or official of any activities that take place other than directly on the waters of the segments of the rivers designated in Section 5093.54.

(g) "Director" means the Director of Fish and Game.

(h) "Immediate environments" means the land immediately adjacent to the segments of the rivers designated in Section 5093.54.

(i) "Special treatment areas" means, for purposes of this chapter, those areas defined as special treatment areas in Section 895.1 of Title 14 of the California Code of Regulations, as in effect on January 1, 2004, as that definition applies to wild and scenic river segments designated from time to time in Section 5093.54, and also includes areas within 200 feet of the watercourse transition line of a state-designated recreational river segment designated in Section 5093.54 that may be at risk during timber operations.

(j) "Board" means the ~~State Board~~ *Department* of Forestry and Fire Protection.

SEC. 1242. Section 6327 of the Public Resources Code is amended to read:

6327. The commission may, upon written application, grant a permit for the use and occupancy of state lands under the jurisdiction of the commission for the installation of facilities for procurement of fresh-water from, and construction of drainage facilities into, navigable rivers, streams, lakes, and bays, except that if ~~such~~ *the* applicant ~~obtain~~ *obtains* the required permit for ~~such~~ *the* use from the local reclamation district, ~~the Reclamation Board,~~ the Department of Water Resources, the California Debris Commission, or the ~~Corps of Engineers of the United States Army, then such~~ *United States Army Corps of Engineers, the* application shall not be required by the ~~State Lands Commission~~ *commission*.

SEC. 1243. Section 12220 of the Public Resources Code is amended to read:

12220. Unless the context otherwise requires, the definitions in this article govern the construction of this division.

(a) "Applicant" means a landowner who is eligible for cost-sharing grants pursuant to the federal Forest Legacy Program (16 U.S.C. Sec. 2103 et seq.) or who is eligible to participate in

the California Forest Legacy Program and the operation of the program, with regard to that applicant, does not rely on federal funding.

(b) "Biodiversity" is a component and measure of ecosystem health and function. It is the number and genetic richness of different individuals found within the population of a species, of populations found within a species range, of different species found within a natural community or ecosystem, and of different communities and ecosystems found within a region.

(c) "Board" means the ~~State Board~~ *Department* of Forestry and Fire Protection.

(d) "Conservation easement" has the same meaning as found in Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(e) "Conversions" is a generic term for situations in which forest lands become used for nonforest uses, particularly those uses that alter the landscape in a relatively permanent fashion.

(f) "Department" means the Department of Forestry and Fire Protection and "director" means the Director of Forestry and Fire Protection.

(g) "Forest land" is land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.

(h) "Landowner" means an individual, partnership, private, public, or municipal corporation, Indian tribe, state agency, county, or local government entity, educational institution, or association of individuals of whatever nature that own private forest lands or woodlands.

(i) "Local government" means a city, county, district, or city and county.

(j) "Nonprofit organization" means any qualified land trust organization, as defined in Section 170(h)(3) of Title 26 of the United States Code, that is organized for one of the purposes of Section 170(b)(1)(A)(vi) or 170(h)(3) of Title 26 of the United States Code, and that has, among its purposes, the conservation of forest lands.

(k) "Program" means the California Forest Legacy Program established under this division.

(*l*) "Woodlands" are forest lands composed mostly of hardwood species such as oak.

SEC. 1244. Section 15004 of the Public Resources Code is amended to read:

15004. "Board" means the California ~~Integrated Waste Management Board~~ *Environmental Protection Agency*.

SEC. 1245. Section 25301 of the Public Resources Code is amended to read:

25301. (a) At least every two years, the commission shall conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The commission shall use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. To perform these assessments and forecasts, the commission may require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric and natural gas utilities, transportation fuel and technology suppliers, and other market participants. These assessments and forecasts shall be done in consultation with the appropriate state and federal agencies including, but not limited to, the Public Utilities Commission, the Office of Ratepayer Advocates, the Air Resources Board, ~~the Electricity Oversight Board,~~ the Independent System Operator, the Department of Water Resources, ~~the California Consumer Power and Conservation Financing Authority,~~ the Department of Transportation, and the Department of Motor Vehicles.

(b) In developing the assessments and forecasts prepared pursuant to subdivision (a), the commission shall do all of the following:

(1) Provide information about the performance of energy industries.

(2) Develop and maintain the analytical capability sufficient to answer inquiries about energy issues from government, market participants, and the public.

(3) Analyze and develop energy policies.

(4) Provide an analytical foundation for regulatory and policy decisionmaking.

(5) Facilitate efficient and reliable energy markets.

SEC. 1246. Section 25302 of the Public Resources Code is amended to read:

25302. (a) Beginning November 1, 2003, and every two years thereafter, the commission shall adopt an integrated energy policy report. This integrated report shall contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes:

(1) Electricity and natural gas markets.

(2) Transportation fuels, technologies, and infrastructure.

(3) Public interest energy strategies.

(b) The commission shall compile the integrated energy policy report prepared pursuant to subdivision (a) by consolidating the analyses and findings of the subsidiary volumes in paragraphs (1), (2), and (3) of subdivision (a). The integrated energy policy report shall present policy recommendations based on an indepth and integrated analysis of the most current and pressing energy issues facing the state. The analyses supporting this integrated energy policy report shall explicitly address interfuel and intermarket effects to provide a more informed evaluation of potential tradeoffs when developing energy policy across different markets and systems.

(c) The integrated energy policy report shall include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. This assessment shall be based on determinations made pursuant to this chapter.

(d) Beginning November 1, 2004, and every two years thereafter, the commission shall prepare an energy policy review to update analyses from the integrated energy policy report prepared pursuant to subdivisions (a), (b), and (c), or to raise energy issues that have emerged since the release of the integrated energy policy report. The commission may also periodically prepare and release technical analyses and assessments of energy issues and concerns to provide timely and relevant information for the Governor, the Legislature, market participants, and the public.

(e) In preparation of the report, the commission shall consult with the following entities: the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, ~~the Electricity Oversight Board,~~ the Independent System Operator, the Department of Water Resources, ~~the California Consumer Power and Conservation Financing Authority,~~ the Department of Transportation, and the Department of Motor Vehicles, and any federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report. To assure collaborative development of state energy policies, these agencies shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the commission.

(f) The commission shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, ~~the Electricity Oversight Board,~~ the Independent System Operator, the Department of Water Resources, ~~the California Consumer Power and Conservation Financing Authority,~~ and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

(g) The commission shall make the report accessible to state, local, and federal entities and to the general public.

SEC. 1247. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Conduct a pilot project of field testing of actual residential buildings to calibrate and identify potential needed changes in the modeling assumptions to increase the accuracy of the public domain computer program specified in subdivision (a) and to evaluate the impacts of the standards, including, but not limited to, the energy savings, cost effectiveness, and the effects on indoor air quality. The pilot project shall be conducted pursuant to a contract entered into by the commission. The commission shall consult ~~with the participants designated pursuant to Section 9202 of the Public Utilities Code to seek funding and support for field monitoring in each public utility service territory,~~ with the University of California to take advantage of its extensive building monitoring expertise, and with the California Building Industry Association to coordinate the involvement of builders and developers throughout the state. The pilot project shall include

periodic public workshops to develop plans and review progress. The commission shall prepare and submit a report to the Legislature on progress and initial findings not later than December 31, 1988, and a final report on the results of the pilot project on residential buildings not later than June 30, 1990. The report shall include recommendations regarding the need and feasibility of conducting further monitoring of actual residential and nonresidential buildings. The report shall also identify any revisions to the public domain computer program and energy conservation standards if the pilot project determines that revisions are appropriate.

(e) Certify, not later than 180 days after approval of the standards by the ~~State Building Standards Commission~~ *Department of General Services*, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(f) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The

commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(g) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(5) No construction of any state building shall commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to ~~subdivision (a) or (b) of~~ Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, *subdivision (a) or (b) of* Section 25402, and this section which are applicable to the building.

(h) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not

commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(i) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(j) If a dispute arises between an applicant for a building permit, or the state pursuant to paragraph (5) of subdivision (g), and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(k) Nothing in Section 25130, 25131, or 25402, or in this section prevents enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

SEC. 1248. Section 25402.2 of the Public Resources Code is amended to read:

25402.2. Any standard adopted by the commission pursuant to Sections 25402 and 25402.1, which is a building standard as defined in Section 25488.5, shall be submitted to the ~~State Building Standards Commission~~ *Department of General Services* for approval pursuant to, and is governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall be enforced as provided in Sections 25402 and 25402.1.

SEC. 1249. Section 25417.5 of the Public Resources Code is amended to read:

25417.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority~~,~~ *and* the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ from the proceeds of revenue bonds issued by any of those agencies, *or from the proceeds of revenue bonds issued pursuant to the California Consumer Power and Conservation Financing Act (Division 1.5 (commencing with Section 3300) of the Public Utilities Code).*

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section

25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the commission, to ~~the California Economic Development Financing Authority~~, the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by ~~the California Economic Development Financing Authority,~~ the California Infrastructure and Economic Development Bank~~, or the California Consumer Power and Conservation Financing Authority~~ as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

SEC. 1250. Section 25443.5 of the Public Resources Code is amended to read:

25443.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from ~~the California Economic Development Financing Authority,~~ the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ from the proceeds of revenue bonds issued by any of those agencies, *or from the proceeds of revenue bonds issued pursuant to the California Consumer Power and Conservation Financing Act (Division 1.5 (commencing with Section 3300) of the Public Utilities Code).*

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the commission, to ~~the California Economic Development Financing Authority,~~ the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by ~~the California Economic Development Financing Authority,~~ the California Infrastructure and Economic Development Bank~~, or the California Consumer Power and Conservation Financing Authority~~ as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the

commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

SEC. 1251. Section 25534 of the Public Resources Code is amended to read:

25534. (a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the commission in its written decision.

(3) A violation of this division or any regulation or order issued by the commission under this division.

(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved ~~provided the California Consumer Power and Conservation Financing Authority notifies the~~ *and the* commission *determines* that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project permit

application deemed complete by the commission after January 1, 2003.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars ($75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars ($1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars ($50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the commission and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the commission within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The commission shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the commission is not met, the commission shall establish milestones for the project.

(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.

(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of subdivision (c) shall be made if the commission determines that any of the following criteria are met:

(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.

(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.

(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.

(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.

(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.

(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project, less the amount paid pursuant to subdivision (a) of Section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.

(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall ~~provide immediate notice to the California Consumer Power and Conservation Financing Authority. The authority shall~~ evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder, *pursuant to the California Consumer Power and Conservation Financing Act (Division 1.5 (commencing with Section 3300) of the Public Utilities Code)*. If the ~~authority demonstrates to the~~ commission *determines* that it is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the commission may revoke the original

certification and issue a new certification for the project to the ~~authority~~ *commission to construct the project pursuant to the California Consumer and Power Conservation Financing Act*, unless the ~~authority's~~ *commission's* statutory authorization to finance or approve new programs, enterprises, or projects *pursuant to that act* has expired. If the ~~authority~~ *commission* declines to pursue the project, the permit shall remain with the current project owner until it expires pursuant to the regulations adopted by the commission.

(h) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the ~~authority~~ *commission*, the commission shall adopt new milestones for the project that allow the ~~authority~~ *commission* up to 24 months to start construction of the project or to start to meet the applicable deadlines or milestones. If the ~~authority~~ *commission* fails to begin construction in conformity with the deadlines or milestones adopted ~~by the commission~~ *under this subdivision*, without good cause, the certification may be revoked.

(i) (1) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the ~~authority~~ *commission* and ~~the authority~~ pursues the project without participation of the original certificate holder, the ~~authority~~ *commission* shall offer to reimburse the original certificate holder for the actual costs the original certificate holder incurred in permitting the project and in procuring assets associated with the license, including, but not limited to, major equipment and the emission offsets. In order to receive reimbursement, the original certificate holder shall provide to the commission documentation of the actual costs incurred in permitting the project. The commission shall validate those costs. The certificate holder may refuse to accept the offer of reimbursement for any asset associated with the license and retain the asset. To the extent the certificate holder chooses to accept the offer for an asset, it shall provide the ~~authority~~ *commission* with the asset.

(2) If the ~~authority~~ *commission* reimburses the original certificate holder for the costs described in paragraph (1), the original certificate holder shall provide the ~~authority~~ *commission* with all

of the assets for which the original certificate holder received reimbursement.

(j) This section does not prevent a certificate holder from selling its license to construct and operate a project prior to its revocation by the commission. In the event of a sale to an entity that is not an affiliate of the certificate holder, the commission shall adopt new deadlines or milestones for the project that allow the new certificate holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, "replacement" of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(*l*) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to "local publicly owned electric utilities" as defined in subdivision (d) of Section 9604 of the Public Utilities Code whose governing bodies certify to the commission that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission ~~and the California Consumer Power and Conservation Financing Authority may, in consultation with each other,~~ *may* adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative

Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 1252. Section 25605.5 of the Public Resources Code is amended to read:

25605.5. Standards adopted by the commission pursuant to Section 25605, which are building standards as defined in Section 25488.5, shall be submitted to the ~~State Building Standards Commission~~ *Department of General Services* for approval pursuant to, and are governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the commission and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605.

SEC. 1253. Section 25770 of the Public Resources Code is amended to read:

25770. For the purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the California ~~Integrated Waste Management Board established pursuant to Division 30 (commencing with Section 40000)~~ *Environmental Protection Agency*.

(b) "Consumer information requirement" means point-of-sale information or signs that are conspicuously displayed, readily accessible, and written in a manner that can be easily understood by the consumer. "Consumer information requirement" does not include mandatory labeling, imprinting, or other marking, on an individual tire by the tire manufacturer or the tire retailer.

(c) "Cost effective" means the cost savings to the consumer resulting from a replacement tire subject to an energy efficiency standard that equals or exceeds the additional cost to the consumer resulting from the standard, taking into account the expected fuel cost savings over the expected life of the replacement tire.

(d) "Replacement tire" means a tire sold in the state that is designed to replace a tire sold with a new passenger car or light-duty truck. "Replacement tire" does not include any of the following tires:

(1) A tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually.

(2) A deep tread, winter-type snow tire, a space-saver tire, or a temporary use spare tire.

(3) A tire with a nominal rim diameter of 12 inches or less.
(4) A motorcycle tire.
(5) A tire manufactured specifically for use in an off-road motorized recreational vehicle.

SEC. 1254. Section 40110 of the Public Resources Code is repealed.

~~40110. "Board" means the California Integrated Waste Management Board.~~

SEC. 1255. Section 40110 is added to the Public Resources Code, to read:

40110. (a) "Agency" for the purposes of this division is the California Environmental Protection Agency.

(b) "Secretary" for the purposes of this division is the Secretary for Environmental Protection.

(c) A reference in this division to the "board," other than a reference to a county board of supervisors, the "state board," or the "state water board," shall be construed as a reference to the agency.

(d) A reference in this division to the California Integrated Waste Management Board shall be construed as a reference to the agency.

(e) A reference in this division to a "local agency," a "regional agency," a "state agency," a "public agency," a "city agency," a "county agency," or a "countywide agency" shall not be construed as a reference to the California Environmental Protection Agency.

SEC. 1256. Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of the Public Resources Code is repealed.

SEC. 1257. Chapter 3 (commencing with Section 40400) is added to Part 1 of Division 30 of the Public Resources Code, to read:

CHAPTER 3. INTEGRATED WASTE MANAGEMENT

40400. (a) The California Integrated Waste Management Board is hereby abolished.

(b) The agency or the secretary, as appropriate, succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the California Integrated Waste Management Board.

(c) Any reference in law to the California Integrated Waste Management Board, the State Solid Waste Management Board, or the California Waste Management Board shall be construed as a reference to the agency or the secretary, as applicable.

(d) All officers and employees of the California Integrated Waste Management Board who are serving in the state civil service, other than as temporary employees, shall be transferred to the agency. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(e) The agency or the secretary, as appropriate, shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the California Integrated Waste Management Board.

(f) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred pursuant to this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(g) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this section.

(h) The unexpended balance of funds that were available for use by the California Integrated Waste Management Board in carrying out functions transferred to the agency under this section shall be made available for the use of the agency.

40404. (a) The agency shall adopt rules and regulations, as necessary, to carry out this division in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of

Title 2 of the Government Code. The agency shall make available to any person, upon request, copies of proposed regulations.

(b) (1) The agency shall adopt regulations regarding city, county, and regional agency source reduction and recycling elements and nondisposal facility elements, required to be submitted to the agency pursuant to Section 41791.5, which shall be deemed to be emergency regulations and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of public peace, health and safety, or general welfare. These emergency regulations shall not alter the deadlines for the submission of countywide and regional agency integrated waste management plans specified in Section 41791.

(2) Prior to adopting the emergency regulations required pursuant to paragraph (1), the agency shall do all of the following:

(A) Make available to any person, upon request, a copy of the proposed regulations at least 30 days prior to adoption.

(B) Hold at least two public hearings in different parts of the state in order to receive public comment on the regulations.

(C) Publish notice in the California Regulatory Notice Register of the proposed adoption of the emergency regulations, the identity of a contact person at the agency from whom copies of the proposed regulations may be obtained, and the dates, times, and locations of the public hearings that are required pursuant to subparagraph (B).

(c) Any emergency regulations adopted by the agency pursuant to paragraph (1) of subdivision (b) shall be filed with the Office of Administrative Law at the earliest feasible date, but not later than December 31, 1993. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to paragraph (1) of subdivision (b) shall remain in effect for not more than three years from the date of adoption.

40406. For the purposes of this division, the agency shall maintain its headquarters in the County of Sacramento, and may establish regional offices in any part of the state that the agency deems necessary.

40408. In order to carry out its powers and duties under this chapter, the agency may enter into any contracts that the agency determines to be necessary.

40410. The agency may accept grants, gifts, and donations for the purposes specified in this division.

40412. (a) Notwithstanding any other provision of law, the agency may sell any of its loans made pursuant to this division on the secondary market and may pool its loans. All proceeds shall be deposited into the same accounts into which the loan repayments from each loan would have been deposited, and the use of the proceeds shall be limited to the authorized uses of these accounts.

(b) The agency shall not sell its loans pursuant to this section if the loan sale results in more than a 25-percent discount of the principal amount, excluding any expenses or reserves required as a condition of the loan sale.

40414. (a) On or before March 1 of each year, the agency shall file an annual report with the Legislature highlighting significant programs or actions undertaken by the agency to implement programs pursuant to this division during the prior calendar year. The report shall include, but is not limited to, the information described in subdivision (b).

(b) The agency shall file annual progress reports with the Legislature covering the activities and actions undertaken by the agency pursuant to this division in the prior fiscal year. The agency shall prepare, and may electronically file with the Legislature, the progress reports throughout the calendar year, as determined by the agency, on the following programs:

(1) The local enforcement agency program.

(2) The research and development program.

(3) The public education program.

(4) The market development program.

(5) The used oil program.

(6) The planning and local assistance program.

(7) The site cleanup program.

(c) The progress report shall specifically include, but is not limited to, all of the following information:

(1) Pursuant to paragraph (1) of subdivision (b), the status of the certification and evaluation of local enforcement agencies pursuant to Chapter 2 (commencing with Section 43200) of Part 4.

(2) Pursuant to paragraph (2) of subdivision (b), all of the following information:

(A) The results of the research and development programs established pursuant to Chapter 13 (commencing with Section 42650) of Part 3.

(B) A report on information and activities associated with the establishment of the Plastics Recycling Information Clearinghouse, pursuant to Section 42520.

(C) A report on the progress in implementing the monitoring and control program for the subsurface migration of landfill gas established pursuant to Section 43030, including recommendations, as needed, to improve the program.

(D) A report on the comparative costs and benefits of the recycling or conversion processes for waste tires funded pursuant to Chapter 17 (commencing with Section 42860) of Part 3.

(3) Pursuant to paragraph (3) of subdivision (b), all of the following information:

(A) A review of actions taken by the agency to educate and inform individuals and public and private sector entities who generate solid waste on the importance of source reduction, recycling, and composting of solid waste, and recommendations for administrative or legislative actions which will inform and educate these parties.

(B) A report on the effectiveness of the public information program required to be implemented pursuant to Chapter 12 (commencing with Section 42600) of Part 3, including recommendations on administrative and legislative changes to improve the program.

(C) A report on the status and effectiveness of school district source reduction and recycling programs implemented pursuant to Chapter 12.5 (commencing with Section 42620) of Part 3, including recommendations on administrative and legislative changes to improve the program's effectiveness.

(D) A report on the effectiveness of the integrated waste management educational program and teacher training plan implemented pursuant to Part 4 (commencing with Section 71300) of Division 34, including recommendations on administrative and legislative changes which will improve the program.

(E) A summary of available and wanted materials, a profile of the participants, and the amount of waste diverted from disposal sites as a result of the California Materials Exchange Program established pursuant to subdivision (a) of Section 42600.

(4) Pursuant to paragraph (4) of subdivision (b), all of the following information:

(A) A review of market development strategies undertaken by the agency pursuant to this division to ensure that markets exist for materials diverted from solid waste facilities, including recommendations for administrative and legislative actions which will promote expansion of those markets. The recommendations shall include, but not be limited to, all of the following:

(i) Recommendations for actions to develop more direct liaisons with private manufacturing industries in the state to promote increased utilization of recycled feedstock in manufacturing processes.

(ii) Recommendations for actions that can be taken to assist local governments in the inclusion of recycling activities in county overall economic development plans.

(iii) Recommendations for actions to utilize available financial resources for expansion of recycling industry capacity.

(iv) Recommendations to improve state, local, and private industry product and material procurement practices.

(B) Development and implementation of a program to assist local agencies in the identification of markets for materials that are diverted from disposal facilities through source reduction, recycling, and composting pursuant to Section 40913.

(C) A report on the Recycling Market Development Zone Loan Program provided for in Section 42023.1, pursuant to Section 42023.5.

(D) A report on implementation of the Compost Market Program pursuant to Chapter 5 (commencing with Section 42230) of Part 3.

(E) A report on the progress in developing and implementing the comprehensive Market Development Plan, pursuant to Article 2 of Chapter 1 (commencing with Section 42005) of Part 3.

(F) The number of retreaded tires purchased by the Department of General Services during the prior fiscal year pursuant to Section 42414.

(G) The results of the study performed in consultation with the Department of General Services pursuant to Section 42416 to determine if tire retreads, procured by the department, have met all quality and performance criteria of a new tire, including any recommendations to expand, revise, or curtail the program.

(H) The number of recycled lead-acid batteries purchased during the prior fiscal year by the Department of General Services pursuant to Section 42443.

(I) A list of established price preferences for recycled paper products for the prior fiscal year pursuant to Section 12211 of the Public Contract Code.

(J) A report on the implementation of the white office paper recovery program pursuant to Chapter 10 (commencing with Section 42560) of Part 3.

(5) Pursuant to paragraph (5) of subdivision (b), both of the following information:

(A) A report on the annual audit of the used oil recycling program established pursuant to Chapter 4 (commencing with Section 48600) of Part 7.

(B) A summary of industrial and lubricating oil sales and recycling rates, the results of programs funded pursuant to Chapter 4 (commencing with Section 48600) of Part 7, recommendations, if any, for statutory changes to the program, including changes in the amounts of the payment required by Section 48650 and the recycling incentive, and plans for present and future programs to be conducted over the next two years.

(6) Pursuant to paragraph (6) of subdivision (b), all of the following information:

(A) The development by the agency of the model countywide or regional siting element and model countywide or regional agency integrated waste management plan pursuant to Section 40912, including its effectiveness in assisting local agencies.

(B) The adoption by the agency of a program to provide assistance to cities, counties, or regional agencies in the development and implementation of source reduction programs pursuant to subdivision (b) of Section 40912.

(C) The development by the agency of model programs and materials to assist rural counties and cities in preparing city and county source reduction and recycling elements pursuant to Section 41757.3.

(D) A report on the number of tires that are recycled or otherwise diverted from disposal in landfills or stockpiles.

(E) A report on the development and implementation of recommendations, with proposed implementing regulations, for providing technical assistance to counties and cities that meet

criteria specified in Section 41782, so that those counties and cities will be able to meet the objectives of this division. The recommendations shall, among other things, address both of the following matters:

(i) Assistance in developing methods of raising revenue at the local level to fund rural integrated waste management programs.

(ii) Assistance in developing alternative methods of source reduction, recycling, and composting of solid waste suitable for rural local governments.

(F) A report on the status and implementation of the "Buy Recycled" program established pursuant to subdivision (d) of Section 42600, including the waste collection and recycling programs established pursuant to Sections 12164.5 and 12165 of the Public Contract Code.

(7) Pursuant to paragraph (7) of subdivision (b), a description of sites cleaned up under the Solid Waste Disposal and Codisposal Site Cleanup Program established pursuant to Article 2.5 (commencing with Section 48020) of Chapter 2 of Part 7, a description of remaining sites where there is no responsible party or the responsible party is unable or unwilling to pay for cleanup, and recommendations for any needed legislative changes.

40416. (a) As part of the annual report required to be submitted by the agency to the Legislature pursuant to Section 40507, the agency shall include a report on new and emerging conversion technologies, including, but not limited to, noncombustion thermal technologies, including gasification and pyrolysis, chemical technologies such as acid hydrolysis or distillation, and biological technologies, other than composting, such as enzyme hydrolysis. The agency shall only evaluate those conversion technologies that provide demonstrated environmental benefits over the transformation and disposal of solid waste.

(b) The report required by subdivision (a) shall contain all of the following:

(1) Specific and discrete definitions and descriptions of each conversion technology evaluated.

(2) A description and evaluation of the life-cycle environmental and public health impacts of each conversion technology in comparison to those environmental and public health impacts from the transformation and disposal of solid waste.

(3) A description and evaluation of the technical performance characteristics, feedstocks, emissions, and residues used by each conversion technology and identification of the cleanest, least polluting conversion technologies.

(4) A description and evaluation of the impacts on the recycling and composting markets as a result of each conversion technology.

(c) The agency shall require that the report be subject to an external scientific peer review process conducted pursuant to Section 57004 of the Health and Safety Code.

(d) The agency shall consult with the State Energy Resources Conservation and Development Commission and other state, federal, or international governmental agencies in preparing the report required by this section.

40418. The agency is hereby designated as the state solid waste management agency for all purposes stated in the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.) and any other federal act heretofore or hereafter enacted affecting solid waste.

40420. The agency may render technical assistance and make recommendations concerning potential solid waste disposal sites upon the request of the board of supervisors of any county. The agency may request any state agency to assist the agency in rendering technical assistance and making recommendations pursuant to this section.

SEC. 1258. Section 44202 of the Public Resources Code is amended to read:

44202. (a) Upon receipt of a written request from any tribe considering a proposal to construct each solid waste facility in that tribe's Indian country within this state, the secretary shall convene negotiations for purposes of reaching a cooperative agreement pursuant to this article, which will define the respective rights, duties, and obligations of the state and the tribe concerning the approval, development, and operation of the facility. In convening the negotiations, the secretary shall consult with the California ~~Integrated Waste Management Board~~ *Environmental Protection Agency*, the State Water Resources Control Board, the appropriate California regional water quality control board, the State Air Resources Board, and the appropriate air pollution control district or air quality management district.

(b) This article does not apply to any facility located on Indian country within the state if it meets all of the following requirements:

(1) The facility is owned and operated solely by a tribe.

(2) All solid waste accepted by the facility is generated by that particular tribe.

(3) Appropriate federal agencies have approved the facility.

SEC. 1259. Section 71017 of the Public Resources Code is amended to read:

71017. (a) "Council" means the California Environmental Policy Council.

(b) The council is hereby created and consists of the following members or their designees:

(1) The Secretary for Environmental Protection.

(2) The Director of Pesticide Regulation.

(3) The Director of Toxic Substances Control.

(4) The Chairperson of the State Air Resources Board.

(5) The Chairperson of the State Water Resources Control Board.

(6) The Director of the Office of Environmental Health Hazard Assessment.

~~(7) The Chairperson of the California Integrated Waste Management Board.~~

SEC. 1260. Section 71069.5 of the Public Resources Code is amended to read:

71069.5. For purposes of this chapter "board" means the California ~~Integrated Waste Management Board~~ *Environmental Protection Agency*.

SEC. 1261. Section 71113 of the Public Resources Code is amended to read:

71113. (a) On or before January 1, 2002, the Secretary for Environmental Protection shall convene a Working Group on Environmental Justice to assist the California Environmental Protection Agency in developing, on or before July 1, 2002, an agencywide strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(b) The working group shall be composed of the Secretary for Environmental Protection, the Chairs of the State Air Resources Board~~, the California Integrated Waste Management Board,~~ and

the State Water Resources Control Board, the Director of Toxic Substances Control, the Director of Pesticide Regulation, the Director of Environmental Health Hazard Assessment, and the Director of Planning and Research.

(c) The working group shall do all of the following on or before April 1, 2002:

(1) Examine existing data and studies on environmental justice, and consult with state, federal, and local agencies and affected communities.

(2) Recommend criteria to the Secretary for Environmental Protection for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(3) Recommend procedures and provide guidance to the California Environmental Protection Agency for the coordination and implementation of intraagency environmental justice strategies.

(4) Recommend procedures for collecting, maintaining, analyzing, and coordinating information relating to an environmental justice strategy.

(5) Recommend procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. The recommendation shall include guidance for determining when it is appropriate for the California Environmental Protection Agency to translate crucial public documents, notices, and hearings relating to human health or the environment for limited-English-speaking populations.

(6) Hold public meetings to receive and respond to public comments regarding recommendations required pursuant to this section, prior to the finalization of the recommendations. The California Environmental Protection Agency shall provide public notice of the availability of draft recommendations at least one month prior to the public meetings.

(7) Make recommendations on other matters needed to assist the agency in developing an intraagency environmental justice strategy.

SEC. 1262. Section 331 of the Public Utilities Code is amended to read:

331. The definitions set forth in this section shall govern the construction of this chapter.

(a) "Aggregator" means any marketer, broker, public agency, city, county, or special district, that combines the loads of multiple end-use customers in facilitating the sale and purchase of electric energy, transmission, and other services on behalf of these customers.

(b) "Broker" means an entity that arranges the sale and purchase of electric energy, transmission, and other services between buyers and sellers, but does not take title to any of the power sold.

(c) "Direct transaction" means a contract between any one or more electric generators, marketers, or brokers of electric power and one or more retail customers providing for the purchase and sale of electric power or any ancillary services.

(d) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

~~(d)~~

(e) "Fire wall" means the line of demarcation separating residential and small commercial customers from all other customers as described in subdivision (e) of Section 367.

~~(e)~~

(f) "Marketer" means any entity that buys electric energy, transmission, and other services from traditional utilities and other suppliers, and then resells those services at wholesale or to an end-use customer.

~~(f)~~

(g) "Microcogeneration facility" means a cogeneration facility of less than one megawatt.

~~(g)~~

(h) "Restructuring trusts" means the two tax-exempt public benefit trusts established by Decision 96-08-038 of the Public Utilities Commission to provide for design and development of the hardware and software systems for the Power Exchange and the Independent System Operator, respectively, and that may undertake other activities, as needed, as ordered by the commission.

~~(h)~~

(i) "Small commercial customer" means a customer that has a maximum peak demand of less than 20 kilowatts.

SEC. 1263. Section 335 of the Public Utilities Code is amended to read:

335. ~~In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board~~

~~is hereby created as provided in Section 336. For purposes of this chapter, any~~ *Any* reference *in this chapter or in any other statute or regulation to the Electricity Oversight Board or* to the Oversight Board shall mean the ~~Electricity Oversight Board~~ *Energy Commission*. ~~Its functions~~ *The Energy Commission* shall ~~be~~ *do* all of the following:

(a) ~~To oversee~~ *Oversee* the Independent System Operator and the Power Exchange.

(b) ~~To determine~~ *Determine* the composition and terms of service and ~~to~~ exercise the exclusive right to decline to confirm the appointments of specific members of the governing board of the Power Exchange.

(c) ~~To serve~~ *Serve* as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.

(d) Those members of the Power Exchange governing board whose appointments the ~~Oversight Board~~ *Energy Commission* has the exclusive right to decline to confirm include proposed governing board members representing agricultural end users, industrial end users, commercial end users, residential end users, end users at large, nonmarket participants, and public interest groups.

(e) ~~To investigate~~ *Investigate* any matter related to the wholesale market for electricity to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the availability of electric transmission and generation and related costs, during periods of peak demand.

SEC. 1264. Section 336 of the Public Utilities Code is repealed.

~~336. (a) The five-member Oversight Board shall be comprised as follows:~~

~~(1) Three members, who are California residents and electricity ratepayers, appointed by the Governor from a list jointly provided by the California Energy Resources Conservation and Development Commission and the Public Utilities Commission, and subject to confirmation by the Senate.~~

~~(2) One member of the Assembly appointed by the Speaker of the Assembly.~~

~~(3) One member of the Senate appointed by the Senate Committee on Rules.~~

~~(b) Legislative members shall be nonvoting members, however, they are otherwise full members of the board with all rights and privileges pertaining thereto.~~

~~(c) Oversight Board members shall serve three-year terms with no limit on reappointment. For purposes of the initial appointments set forth in paragraph (1), the Governor shall appoint one member to a one-year term, one to a two-year term, and one to a three-year term.~~

~~(d) The Governor shall designate one of the voting members as the chairperson of the Oversight Board who shall preside over meetings and direct the executive director in the routine administration of the Oversight Board's business. The chairperson may designate one of the other voting members to preside over meetings in the absence of the chairperson.~~

~~(e) Two voting members shall constitute a quorum. Any decision or action of the Oversight Board shall be by majority vote of the voting members.~~

~~(f) The members of the Oversight Board shall serve without compensation, but shall be reimbursed for all necessary expenses incurred in the performance of their duties.~~

SEC. 1265. Section 336 is added to the Public Utilities Code, to read:

336. (a) The Energy Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the California Consumer Power and Conservation Financing Authority.

(b) All officers and employees of the California Consumer Power and Conservation Financing Authority who are serving in the state civil service, other than as temporary employees, shall be transferred to the State Energy Resources Conservation and Development Commission. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Energy Commission, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(c) The Energy Commission shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims,

judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the California Consumer Power and Conservation Financing Authority.

(d) (1) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(2) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

SEC. 1266. Section 337 of the Public Utilities Code is amended to read:

337. (a) The Independent System Operator governing board shall be composed of a five-member independent governing board of directors appointed by the Governor and subject to confirmation by the Senate. Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.

(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.

(c) (1) All appointments shall be for three-year terms.

(2) There is no limit on the number of terms that may be served by any member.

(d) The ~~Oversight Board~~ *Energy Commission* shall require the articles of incorporation and bylaws of the Independent System Operator to be revised in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the ~~Oversight Board~~ *Energy Commission* determines to be necessary.

(e) For the purposes of the initial appointments to the Independent System Operator governing board, as provided in subdivision (a), the Governor shall appoint one member to a one-year term, two members to a two-year term, and two members to a three-year term.

SEC. 1267. Section 338 of the Public Utilities Code is amended to read:

338. The ~~Oversight Board~~ *Energy Commission* shall have the exclusive right to approve procedures and the qualifications for Power Exchange governing board members specified in subdivision (d) of Section 335, all of whom shall be required to be electricity customers in the area served by the Power Exchange. The Power Exchange governing board shall include, but not be limited to, representatives of investor-owned electric distribution companies, publicly owned electric distribution companies, nonutility generators, public buyers and sellers, private buyers and sellers, industrial end-users, commercial end-users, residential end-users, agricultural end-users, public interest groups, and nonmarket participant representatives. The structural composition of the Power Exchange governing board existing on July 1, 1999, shall remain in effect until an agreement with a participating state is legally in effect. However, prior to such an agreement, California shall retain the right to change the Power Exchange governing board into a nonstakeholder board. In the event of such a legislative change, revised bylaws shall be filed with the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).

SEC. 1268. Section 339 of the Public Utilities Code is amended to read:

339. (a) The ~~Oversight Board~~ *Energy Commission* is the appeal board for majority decisions of the Independent System Operator governing board relating to matters that are identified in subdivision (b) as they pertain to the Independent System Operator.

(b) The following matters are subject to California's exclusive jurisdiction:

(1) Selections by California of governing board members, as described in Sections 335, 337, and 338.

(2) Matters pertaining to retail electric service or retail sales of electric energy.

(3) Ensuring that the purposes and functions of the Independent System Operator and Power Exchange are consistent with the purposes and functions of California nonprofit public benefit corporations, including duties of care and conflict of interest standards for directors of the corporations.

(4) State functions assigned to the Independent System Operator and Power Exchange under state law.

(5) Open meeting standards and meeting notice requirements.

(6) Appointment of advisory representatives representing state interests.

(7) Public access to corporate records.

(8) The amendment of bylaws relevant to these matters.

(c) Only members of the Independent System Operator governing board may appeal a majority decision of the Independent System Operator related to any of the matters specified in subdivision (b) to the ~~Oversight Board~~ *Energy Commission*.

SEC. 1269. Section 340 of the Public Utilities Code is amended to read:

340. The ~~Oversight Board~~ *Energy Commission* shall take the steps that are necessary to ensure the earliest possible incorporation of the Independent System Operator and the Power Exchange as separately incorporated public benefit, nonprofit corporations under the Corporations Code.

SEC. 1270. Section 341 of the Public Utilities Code is amended to read:

341. The ~~Oversight Board~~ *Energy Commission* may do all of the following *in implementing this chapter*:

(a) Meet at the times and places it may deem proper.

(b) Accept appropriations, grants, or contributions from any public source, private foundation, or individual.

(c) Sue and be sued.

(d) Contract with state, local, or federal agencies for services or work required by the ~~Oversight Board~~ *Energy Commission*.

(e) Contract for or employ any services or work required by the ~~Oversight Board~~ *Energy Commission* that in its opinion cannot satisfactorily be performed by its staff or by other state agencies.

(f) Appoint advisory committees from members of other public agencies and private groups or individuals.

(g) As a body, or on the authorization of the ~~Oversight Board~~ *Energy Commission*, as a subcommittee composed of one or more members, hold hearings at the times and places it may deem proper.

(h) Issue subpoenas to compel the production of books, records, papers, accounts, reports, and documents and the attendance of witnesses.

(i) Administer oaths.

(j) Adopt or amend rules and regulations to carry out the purposes and provisions of this chapter, and to govern the procedures of the ~~Oversight Board~~ *Energy Commission*.

(k) Exercise any authority consistent with this chapter delegated to it by a federal agency or authorized to it by federal law.

(*l*) Make recommendations to the Governor and the Legislature at the time or times the ~~Oversight Board deems~~ *Energy Commission determines to be* necessary.

(m) Participate in proceedings relevant to the purposes of this chapter or to the purposes of Division 4.9 (commencing with Section 9600) or, as part of any coordinated effort by the state, participate in activities to promote the formation of interstate agreements to enhance the reliability and function of the electricity system and the electricity market.

(n) Do any and all other things necessary to carry out the purposes of this chapter.

SEC. 1271. Section 341.2 of the Public Utilities Code is amended to read:

341.2. The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) applies to meetings of the ~~Oversight Board~~ *Energy Commission related to the implementation of this chapter*. In addition to the allowances of that act, the ~~Oversight Board~~ *Energy Commission* may hold a closed session to consider the appointment of one or more candidates to the governing board of the Power Exchange, deliberate on matters involving the removal of a member of the governing board of the Power Exchange, or to consider a matter based on information that has received a grant of confidential status pursuant to regulations of the ~~Oversight Board~~ *Energy Commission*, provided that any action taken on such a matter shall be taken by vote in an open session.

SEC. 1272. Section 341.3 of the Public Utilities Code is repealed.

~~341.3. Voting members of the Oversight Board shall be required to file financial disclosure statements with the Fair Political Practices Commission. The appointing authority for voting members shall avoid appointing persons with conflicts of interest.~~

SEC. 1273. Section 341.4 of the Public Utilities Code is amended to read:

341.4. ~~The Oversight Board shall appoint, and fix the salary of, an executive director who shall have charge of administering the affairs of the Oversight Board, including entering into contracts, subject to the direction and policies of the Oversight Board.~~ Notwithstanding Sections 11042 and 11043 of the Government Code, the ~~Oversight Board~~ *Energy Commission* shall appoint an attorney who shall advise the ~~Oversight Board and each member~~ *Energy Commission* and represent the ~~Oversight Board~~ *Energy Commission* as a party in any state or federal action or proceeding related to the purposes of this chapter or to an action of the ~~Oversight Board~~ *Energy Commission under this chapter* and who shall perform generally all the duties of attorney to the ~~Oversight Board~~ *Energy Commission under this chapter*. ~~For purposes of this section, the Oversight Board may appoint a person exempt pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution. The executive director shall, in accordance with Article VII of the California Constitution and subject to the approval of the Oversight Board, appoint employees as may be necessary to carry out the Oversight Board's duties and responsibilities.~~

SEC. 1274. Section 341.5 of the Public Utilities Code is amended to read:

341.5. (a) The Independent System Operator and Power Exchange bylaws shall contain provisions that identify those matters specified in subdivision (b) of Section 339 as matters within state jurisdiction. The bylaws shall also contain provisions which state that California's bylaws approval function with respect to the matters specified in subdivision (b) of Section 339 shall not preclude the Federal Energy Regulatory Commission from taking any action necessary to address undue discrimination or other violations of the Federal Power Act (16 U.S.C.A. Sec. 791a et seq.) or to exercise any other commission responsibility under the

Federal Power Act. In taking any such action, the Federal Energy Regulatory Commission shall give due respect to California's jurisdictional interests in the functions of the Independent System Operator and Power Exchange and to attempt to accommodate state interests to the extent those interests are not inconsistent with the Federal Energy Regulatory Commission's statutory responsibilities. The bylaws shall state that any future agreement regarding the apportionment of the Independent System Operator and Power Exchange board appointment function among participating states associated with the expansion of the Independent System Operator and Power Exchange into multistate entities shall be filed with the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).

(b) Any necessary bylaw changes to implement the provisions of Section 335, 337, 338, 339, or subdivision (a) of this section, or changes required pursuant to an agreement as contemplated by subdivision (a) of this section with a participating state for a regional organization, shall be effective upon approval of the respective governing boards and the ~~Oversight Board~~ *Energy Commission* and acceptance for filing by the Federal Energy Regulatory Commission.

SEC. 1275. Section 348 of the Public Utilities Code is amended to read:

348. The Independent System Operator shall adopt inspection, maintenance, repair, and replacement standards for the transmission facilities under its control no later than September 30, 1997. The standards, which shall be performance or prescriptive standards, or both, as appropriate, for each substantial type of transmission equipment or facility, shall provide for high quality, safe, and reliable service. In adopting its standards, the Independent System Operator shall consider: cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The Independent System Operator shall also adopt standards for reliability, and safety during periods of emergency and disaster. The Independent System Operator shall report to the ~~Oversight Board~~ *Energy Commission*, at such times as the ~~Oversight Board~~ *Energy Commission* may specify, on the development and implementation of the standards in relation to facilities under the operational control of the

Independent System Operator. The Independent System Operator shall require each transmission facility owner or operator to report annually on its compliance with the standards. That report shall be made available to the public.

SEC. 1276. Section 350 of the Public Utilities Code is amended to read:

350. The Independent System Operator, in consultation with the ~~California~~ Energy ~~Resources Conservation and Development~~ Commission, the Public Utilities Commission, the Western Electricity Coordinating Council, and concerned regulatory agencies in other western states, shall within six months after the Federal Energy Regulatory Commission approval of the Independent System Operator, provide a report to the Legislature and to the ~~Oversight Board~~ *Energy Commission* that does the following:

(a) Conducts an independent review and assessment of Western Electricity Coordinating Council operating reliability criteria.

(b) Quantifies the economic cost of major transmission outages relating to the Pacific Intertie, Southwest Power Link, DC link, and other important high voltage lines that carry power both into and from California.

(c) Identifies the range of cost-effective options that would prevent or mitigate the consequences of major transmission outages.

(d) Identifies communication protocols that may be needed to be established to provide advance warning of incipient problems.

(e) Identifies the need for additional generation reserves and other voltage support equipment, if any, or other resources that may be necessary to carry out its functions.

(f) Identifies transmission capacity additions that may be necessary at certain times of the year or under certain conditions.

(g) Assesses the adequacy of current and prospective institutional provisions for the maintenance of reliability.

(h) Identifies mechanisms to enforce transmission right-of-way maintenance.

(i) Contains recommendations regarding cost-beneficial improvements to electric system reliability for the citizens of California.

SEC. 1277. Section 352 of the Public Utilities Code is amended to read:

352. The Independent System Operator may not enter into a multistate entity or a regional organization as authorized in Section 359 unless that entry is approved by the ~~Oversight Board~~ *Energy Commission*.

SEC. 1278. Section 372 of the Public Utilities Code is amended to read:

372. (a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

(1) To load served onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, "affiliated" means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another specified entity. "Control" means either of the following:

(A) The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

(B) Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial, or equitable interest.

(2) To load served by onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially

operational on or before January 1, 1998, or by increases in the capacity of a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties.

(3) To load served by existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided the emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

(4) After June 30, 2000, to any load served onsite or under an over the fence arrangement by any nonmobile self-cogeneration or cogeneration facility.

(b) Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

(1) Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

(2) Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

(A) Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

(B) Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

(C) Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred,

provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

(3) Subject to the firewall described in subdivision (e) of Section 367, provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed prior to December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

(c) The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

(1) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to load served onsite by a nonmobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

(2) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to any load served under over the fence arrangements entered into after December 20, 1995, between unaffiliated entities.

(d) For the purposes of this subdivision, all onsite or over the fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

(e) To facilitate the development of new microcogeneration applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

(f) To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

(1) The commission and the ~~Electricity Oversight Board~~ *Energy Commission* shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission and the ~~Electricity Oversight Board~~ *Energy Commission* find that any policy or action of the Independent System Operator unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid, the commission and the ~~Electricity Oversight Board~~ *Energy Commission* shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

SEC. 1279. Section 464 of the Public Utilities Code is amended to read:

464. (a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not these expenditures are for transmission facilities that become operational.

(b) The commission and the ~~Electricity Oversight Board~~ *State Energy Resources Conservation and Development Commission* shall jointly facilitate the efforts of the state's transmission owning electrical corporations to obtain authorization from the Federal Energy Regulatory Commission to recover reasonable expenditures made for the purposes stated in subdivision (a).

(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs. 791a~~,~~ et seq.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by an electrical corporation and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by a gas corporation, consistent with this code.

SEC. 1280. Section 761.3 of the Public Utilities Code is amended to read:

761.3. (a) Notwithstanding subdivision (g) of Section 216 and subdivisions (c) and (d) of Section 228.5, the commission shall implement and enforce standards adopted pursuant to subdivision

(b) for the maintenance and operation of facilities for the generation of electric energy owned by an electrical corporation or located in the state to ensure their reliable operation. The commission shall enforce the protocols for the scheduling of powerplant outages of the Independent System Operator.

(b) (1) The commission and the Independent System Operator shall jointly establish the California Electricity Generation Facilities Standards Committee. The committee shall consist of three members, one a member of the commission appointed by the commission, one a member of the Independent System Operator board appointed by that board, and one individual with expertise regarding electric generation facilities and jointly appointed by the commission and the Independent System Operator board. The committee, within 90 days of the effective date of this section and after providing notice and opportunity for public comment, shall adopt, and may thereafter revise, standards for the maintenance and operation of facilities for the generation of electric energy located in the state. The standards shall be consistent with subdivision (d) of this section.

(2) The committee shall be supported by a reasonable amount of staff time, which shall be provided proportionally by the agencies represented on the committee.

(3) This subdivision shall be operative only until January 1, 2005.

(c) Nothing in this section authorizes the commission to establish rates for wholesale sales in interstate commerce from those facilities, or to approve the sale or transfer of control of facilities that have been certified as exempt wholesale generators by the Federal Energy Regulatory Commission pursuant to Section 79z-5a(1) of Title 15 of the United States Code.

(d) (1) (A) Except as otherwise provided in this subdivision, this section shall not apply to nuclear powered generating facilities that are federally regulated and subject to standards developed by the Nuclear Regulatory Commission, and that participate as members of the Institute of Nuclear Power Operations.

(B) The owner or operator of a nuclear powered generating facility shall file with the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the commission an annual schedule of maintenance, including repairs and upgrades, updated quarterly, for each generating facility. The owner or

operator of a nuclear powered generating facility shall make good faith efforts to conduct its maintenance in compliance with its filed plan and shall report to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the Independent System Operator any significant variations from its filed plan.

(C) The owner or operator of a nuclear powered generating facility shall report on a monthly basis to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the commission all actual planned and unplanned outages of each facility during the preceding month. The owner or operator of a nuclear powered generating facility shall report on a daily basis to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the Independent System Operator the daily operational status and availability of each facility.

(2) (A) Except as otherwise provided in this subdivision, this section shall not apply to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title 11 of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Secs. 292.101 to 292.602, inclusive), nor shall this section apply to other generation units installed, operated, and maintained at a customer site, exclusively to serve that customer's load.

(B) An electrical corporation that has a contract with a qualifying small power production facility, or a qualifying cogeneration facility, with a name plate rating of 10 megawatts or greater, shall report to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the commission maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility. Each facility with a name plate rating of ten megawatts or greater shall be responsible for directly reporting to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the Independent System Operator maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility, if that

information is not provided to the electrical corporation pursuant to a contract.

(e) In developing the standards pursuant to subdivision (b), the committee shall take into consideration generation facilities scheduled for retirement, valid warranties on generation facilities, and the operational authority of the Independent System Operator as prescribed in the standard Participating Generator Agreement and applicable sections of the Federal Energy Regulatory Commission's approved Independent System Operator tariff.

(f) Nothing in this section shall result in the modification, delay, or abrogation of any deadline, standard, rule, or regulation adopted by a federal, state, or local agency for the purposes of protecting public health or the environment, including, but not limited to, any requirements imposed by the State Air Resources Board or by an air pollution control district or an air quality management district pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code. The Independent System Operator shall consult with the State Air Resources Board and the appropriate local air pollution control districts and air quality management districts to coordinate scheduled outages to provide for compliance with those retrofits.

(g) The Independent System Operator shall maintain records of generation facility outages and shall provide those records to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the commission on a daily basis. Each entity that owns or operates an electric generating unit in California with a rated maximum capacity of 10 megawatts or greater, shall provide a monthly report to the Independent System Operator that identifies any periods during the preceding month when the unit was unavailable to produce electricity or was available only at reduced capacity. The report shall identify the reasons for any such unscheduled unavailability or reduced capacity. The Independent System Operator shall immediately transmit the information to the ~~Oversight Board~~ *State Energy Resources Conservation and Development Commission* and the commission.

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

(1) Facilities owned by a local publicly owned electric utility as defined in subdivision (d) of Section 9604.

(2) Any public agency that may generate electricity incidental to the provision of water or wastewater treatment.

(3) Facilities owned by a city and county operating as a public utility, furnishing electric service as provided in Section 10001.

SEC. 1281. Division 1.5 (commencing with Section 3300) of the Public Utilities Code is repealed.

SEC. 1282. Division 1.5 (commencing with Section 3300) is added to the Public Utilities Code, to read:

DIVISION 1.5. CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

3300. The Legislature finds and declares that in order to furnish the citizens of California with reliable, affordable electrical power, to ensure sufficient power reserves, to assure stability and rationality in California's electricity market, to encourage energy efficiency and conservation as well as the use of renewable energy resources, and to protect the public health, welfare, and safety, the state needs to finance, purchase, lease, own, operate, acquire, or otherwise provide financial assistance for public and private facilities for the generation and transmission of electricity and for renewable energy, energy efficiency, and conservation programs.

3301. This division shall be known and may be cited as the California Consumer Power and Conservation Financing Act.

3302. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) "Act" means the California Consumer Power and Conservation Financing Act.

(b) "Bond purchase agreement" means a contractual agreement executed between the State Energy Resources Conservation and Development Commission and an underwriter or underwriters and, where appropriate, a participating party, whereby the State Energy Resources Conservation and Development Commission agrees to sell bonds issued pursuant to this division.

(c) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable

maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

(d) "Commission" means the Public Utilities Commission.

(e) "Cost," as applied to a program, project or portion thereof financed under this division, means all or any part of the cost of construction, improvement, repair, reconstruction, renovation, and acquisition of all lands, structures, improved or unimproved real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery and equipment; financing charges; the costs of any environmental mitigation; the costs of issuance of bonds or other indebtedness; interest prior to, during, and for a period after, completion of the project, as determined by the State Energy Resources Conservation and Development Commission; provisions for working capital; reserves for principal and interest; reserves for reduction of costs for loans or other financial assistance; reserves for maintenance, extension, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial, appraisal, and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project, enterprise, or program or incidental to the completion or financing of any project or program.

(f) "Electrical corporation" has the same meaning as that term is defined in Section 218.

(g) "Energy Commission" means the State Energy Resources Conservation and Development Commission and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the State Energy Resources Conservation and Development Commission by this division shall be given by law.

(h) "Enterprise" means a revenue-producing improvement, building, system, plant, works, facilities, or undertaking used for or useful for the generation or production of electric energy for

lighting, heating, and power for public or private uses. Enterprise includes, but is not limited to, all parts of the enterprise, all appurtenances to it, lands, easements, rights in land, water rights, contract rights, franchises, buildings, structures, improvements, equipment, and facilities appurtenant or relating to the enterprise.

(i) "Financial assistance" in connection with a project, enterprise or program, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the Energy Commission or its predecessors, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the Energy Commission; the purchase or retention of Energy Commission bonds under this division, the bonds of a participating party for their retention or for sale by the Energy Commission under this division, or the issuance of Energy Commission bonds or the bonds of a special purpose trust used to fund the cost of a project or program for which a participating party is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this division; bonds for which the Energy Commission has provided a guarantee or enhancement; or any other type of assistance determined to be appropriate by the Energy Commission.

(j) "Fund" means the California Consumer Power and Conservation Financing Fund.

(k) "Loan agreement" means a contractual agreement executed between the Energy Commission and a participating party that provides that the Energy Commission will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

(l) "Local publicly owned electric utility" has the same meaning as that term is defined in Section 9604.

(m) "Participating party" means either of the following:

(1) Any person, company, corporation, partnership, firm, federally recognized California Indian tribe, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the Energy Commission for the

purpose of implementing a project or program in a manner prescribed by the Energy Commission pursuant to this division.

(2) Any subdivision of the state or local government, including, but not limited to, departments, agencies, commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, or that operates or proposes to operate a program under Section 3365, and that makes application to the Energy Commission for financial assistance in a manner prescribed by the Energy Commission pursuant to this division.

(n) "Program" means a program that provides financial assistance, as provided in Article 6 (commencing with Section 3365).

(o) "Project" means plants, facilities, equipment, appliances, structures, expansions, and improvements within the state that serve the purposes of this division as approved by the Energy Commission, and all activities and expenses necessary to initiate and complete those projects described in Article 5 (commencing with Section 3350) and Article 7 (commencing with Section 3368), of Chapter 3.

(p) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the Energy Commission from an enterprise, or by the Energy Commission or a participating party from any other financing arrangement undertaken by the Energy Commission or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the Energy Commission or a participating party.

(q) "State" means the State of California.

3303. (a) The State Energy Resources Conservation and Development Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the California Consumer Power and Conservation Financing Authority.

(b) All officers and employees of the California Consumer Power and Conservation Financing Authority who are serving in the state civil service, other than as temporary employees, shall be transferred to the State Energy Resources Conservation and

Development Commission. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the State Energy Resources Conservation and Development Commission, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(c) The State Energy Resources Conservation and Development Commission shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the California Consumer Power and Conservation Financing Authority.

(d) (1) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(2) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

(e) Any reference to the California Consumer Power and Conservation Financing Authority shall refer to the Energy Commission, and any other law or regulation referring to the California Consumer Power and Conservation Financing Authority shall mean the Energy Commission.

3304. Any action taken pursuant to this division is exempt from the Administrative Procedure Act, as defined in Section 11370 of the Government Code.

CHAPTER 2. AUTHORITY OF THE ENERGY COMMISSION

3310. The Energy Commission may exercise its powers under this division pursuant to Article 4 (commencing with Section 3340) of Chapter 3 to do all of the following:

(a) Establish, finance, purchase, lease, own, operate, acquire, or construct generating facilities and other projects and enterprises, on its own or through agreements with public and private third parties or joint ventures with public or private entities, or provide financial assistance for projects or programs by participating parties, to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, and to ensure a sufficient and reliable supply of electricity for California's consumers at just and reasonable rates.

(b) Finance programs, administered by the Energy Commission, the commission, and other approved participating parties for consumers and businesses to invest in cost-effective energy efficient appliances, renewable energy projects, and other programs that will reduce the demand for energy in California.

(c) Finance natural gas transportation and storage projects under Article 7 (commencing with Section 3368) of Chapter 3.

(d) Achieve an adequate energy reserve capacity in California within five years of the effective date of this division.

(e) Provide financing for owners of aged, inefficient, electric powerplants to perform necessary retrofits to improve the efficiency and environmental performances of those powerplants.

3320. The Energy Commission shall implement the purposes of Chapter 2 (commencing with Section 3310), and to that end finance projects and programs in accordance with this division, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

3328. The California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) applies to all records of the Energy Commission under this division.

3330. The Energy Commission shall manage the fund. Except as otherwise provided in this section, the Energy Commission may assign to a designee, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under

this division. Any action involving final approval of any bonds, notes, loans, or other financial assistance shall require the approval of a majority of the members of the Energy Commission.

3340. The Energy Commission may do all things generally necessary or convenient to carry out its powers under, and the purposes of, this division.

3341. In connection with the purposes of this division, the Energy Commission may do any or all of the following:

(a) Issue bonds, from time to time, as further provided in Chapter 5 (commencing with Section 3380.1), to pay all or part of the cost of any enterprise, project, or program, or to otherwise carry out the purposes of this division.

(b) Enter into joint powers agreements with eligible public agencies pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(c) Subject to any statutory or constitutional limitation on their use, do any of the following as may, in the determination of the Energy Commission, be necessary or convenient for the successful development, conduct, or financing of a project, program, or enterprise, or for carrying out the purposes of this division:

(1) Engage the services, including, without limitation, the services of private consultants; attorneys; financial professionals and advisors; engineers; architects; construction, land use and environmental experts; and accountants, to render professional and technical assistance and advice.

(2) Contract for engineering, architectural, accounting, or other services of appropriate state agencies.

(3) Pay the reasonable costs, including, without limitation, costs of consulting engineers, architects, accountants, and construction, land use, and environmental experts employed by the Energy Commission or any participating party. Except as otherwise provided in Section 3341.5, those costs shall be recovered from participating parties.

(d) Acquire, lease, take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state, as the Energy Commission determines to be necessary or convenient for an enterprise or the financing of a project, upon terms and conditions the Energy Commission considers to be reasonable.

(e) Make, receive, or serve as a conduit for the making of, or otherwise provide for, grants, contributions, guarantees, insurance, credit enhancements or liquidity facilities, or other financial enhancements to a participating party as financial assistance for a project or program. The sources may include bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grants and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account, or any other source of money, property, labor, or other things of value.

(f) Make loans to any participating party, either directly or by making a loan to a lending institution or other financial intermediary, in connection with the financing of a project or program in accordance with an agreement between the Energy Commission and a participating party, either as a sole lender or in participation with other lenders.

(g) Make loans to any participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the Energy Commission and the participating party to refinance indebtedness incurred by the participating party in connection with projects undertaken and completed prior to any agreement with the Energy Commission or expectation that the Energy Commission would provide financing, either as a sole lender or in participation with other lenders. The power generated by those projects shall be subject to the terms and conditions specified by the Energy Commission in the agreement and pursuant to Section 3351.

(h) Mortgage all or any portion of the Energy Commission's interest in a project or enterprise and the property on which any project or enterprise is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(i) Assign or pledge all or any portion of the Energy Commission's interest in assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a participating party to which the Energy Commission has made loans, and the revenues therefrom, including

payment or income from any interest owned or held by the Energy Commission, for the benefit of the holders of bonds.

(j) Lease the project being financed to a participating party, upon terms and conditions that the Energy Commission deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the Energy Commission; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the Energy Commission for the financing of the project, the Energy Commission may convey, any or all of the project to the lessee or lessees. The power generated by those projects shall be subject to the terms and conditions specified by the Energy Commission in the agreement and pursuant to Section 3351.

(k) (1) Issue, obtain, or aid in obtaining, from any department or agency of the United States, from other agencies of the state, or from any private company, any insurance or guarantee to or for, or any letter or line of credit regarding, the payment or repayment of interest or principal, or both, or any part thereof, on any bond, loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this division.

(2) Notwithstanding any other provision of this division, enter into any agreement, contract, or other instrument regarding any insurance, guarantee, letter or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating party.

(3) Assign any insurance, guarantee, letter or line of credit specified in paragraph (1) as security for bonds issued by the Energy Commission.

(l) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the Energy Commission's bonds or a participating party's obligations to the Energy Commission, including, but not limited to, bonds of a participating party purchased by the Energy Commission for retention or sale, with funds or moneys that are legally available and that are due or payable to the participating party by reason of any grant, allocation, apportionment, or appropriation of the state or agencies

thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the participating party, the Energy Commission, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the participating party has not paid or is in default on its obligations to the Energy Commission, direct the Controller to withhold payment of those funds or moneys from the participating party over which it is or will be custodian and to pay the same to the Energy Commission or its assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt to the Energy Commission or its assignee, until the default has been cured and the amounts then due and unpaid have been paid to the Energy Commission or its assignee, or until arrangements satisfactory to the Energy Commission have been made to cure the default.

(m) Purchase, with the proceeds of the Energy Commission's bonds, bonds issued by, or for the benefit of, any participating party in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds purchased pursuant to this division may be held by the Energy Commission, pledged or assigned by the Energy Commission, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the Energy Commission, and notwithstanding any other provision of law, may be bought by the Energy Commission at private sale.

(n) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds.

3341.1. In connection with an enterprise, the Energy Commission may do any or all of the following:

(a) Acquire any enterprise by gift, purchase, or eminent domain as necessary to achieve the purposes of the Energy Commission pursuant to Sections 3310 and 3352.

(b) Construct or improve any enterprise. By gift, lease, purchase, eminent domain, or otherwise, it may acquire any real or personal property, for an enterprise, except that no property of a state public

body may be acquired without its consent. The Energy Commission may sell, lease, exchange, transfer, assign, or otherwise dispose of any real or personal property or any interest in such property. It may lay out, open, extend, widen, straighten, establish, or change the grade of any real property or public rights-of-way necessary or convenient for any enterprise.

(c) Operate, maintain, repair, or manage all or any part of any enterprise, including the leasing for commercial purposes of surplus space or other space that is not economic to use for such enterprise.

(d) Adopt reasonable rules or regulations for the conduct of the enterprise.

(e) Prescribe, revise, and collect charges for the services, facilities, or energy furnished by the enterprise. The charges shall be established and adjusted so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the Energy Commission financing such enterprise as the same shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing such bonds, and (3) pay operating and administrative costs of the Energy Commission.

(f) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

3341.2. In connection with a project, the Energy Commission may do any or all of the following:

(a) Determine the location and character of any project to be financed under this division.

(b) Acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate any project to be financed under this division.

(c) Contract with any participating party for the construction of a project by such participating party.

(d) Enter into leases and agreements, as lessor or lessee, with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, equipment, and facilities of any kind or character.

(e) Establish, revise, charge and collect rates, rents, fees, and charges for a project. The rates, rents, fees, and charges shall be established and adjusted in respect of the aggregate rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the Energy Commission financing such project as the same shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing such bonds, and (3) pay operating and administrative costs of the Energy Commission.

(f) Enter into contracts of sale with any participating party covering any project financed by the Energy Commission.

(g) As an alternative to leasing or selling a project to a participating party, finance the acquisition, construction, or installation of a project by means of a loan to the participating party.

(h) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

3341.5. In connection with the purposes of this division, the Energy Commission shall charge and equitably apportion among participating parties or other public or private entities the Energy Commission's administrative costs and expenses, including operating and financing-related costs incurred in the exercise of the powers and duties conferred by this division, except to the extent that those costs are related to one of the Energy Commission's own enterprises or projects, in which case costs shall be included in the cost of generating that electricity as provided in Section 3351.

3342. The fiscal powers granted to the Energy Commission by this division may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature or as otherwise stated in this division. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

3343. No member of the Energy Commission or any person executing bonds of the Energy Commission pursuant to this division

shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

3344. All expenses incurred in carrying out this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the state and no expenses shall be incurred by the Energy Commission in carrying out this division beyond the extent to which moneys shall have been provided under this division. Under no circumstances shall the Energy Commission create any debt, liability, or obligation on the part of the state payable from any source whatsoever other than the moneys provided under this division.

3345. The Energy Commission's operating budget under this division shall be subject to review and appropriation in the annual Budget Act. For purposes of this section, the Energy Commission's operating budget under this division shall include the costs of personnel, administration, and overhead attributable to carrying out the duties of this division.

3346. Notwithstanding Section 7550.5 of the Government Code, the Energy Commission shall, on or before January 1 of each year, prepare and submit to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house that considers appropriations, a report regarding its activities and expenditures pursuant to this division.

3350. In evaluating the eligibility for financing of additional generation facilities, the Energy Commission shall utilize its own, and the Independent System Operator's, or their successor's, information relating to the need for additional generating facilities and their forecasts of electric supply and demand for the state.

3351. (a) All generation-related projects and enterprises financed pursuant to this division shall provide electricity to the consumers of this state at the cost of generating that electricity, including the costs of financing those projects or enterprises. To the extent that electricity is not needed in the state, or that it is financially advantageous to California consumers, the electricity may be sold outside the state at just and reasonable rates.

(b) If a participating party is an electrical corporation, the commission shall determine the cost of generating electricity and to which entities the electricity is sold.

(c) If a participating party is a local publicly owned electric utility seeking to provide electricity to consumers in its service territory, the governing board of that utility shall determine the cost of generating electricity and to which entities the electricity is sold.

(d) If neither subdivision (b) nor subdivision (c) applies, the Energy Commission shall determine the cost of generating electricity and to which entities the electricity is sold, consistent with subdivision (a).

3352. In addition to the other powers provided in this division, the activities of the Energy Commission under this article are intended to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, consistent with achieving reasonable energy capacity reserves within five years of the effective date of this division.

3353. The Energy Commission may receive and act on applications for financial assistance from owners of existing powerplants whose owners or operators commit to undertake capacity expansion through facility retrofits, new construction, or both, that will improve the efficiency and environmental performance of generation facilities.

3354. All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

3355. The Energy Commission shall not invest in any nuclear facilities or develop additional hydroelectric facilities without first receiving specific statutory authorization to do so on a project-by-project basis.

3356. (a) If the Energy Commission determines under Section 3350 that additional electric generation supply is required to meet the purposes of this division, the Energy Commission may undertake the following activities to ensure that the Energy Commission, or any participating party, is able to build, own, and operate generation facilities as part of a least cost electric supply policy:

(1) Identify suitable sites for the construction of generation facilities, taking into account fuel supply, interconnection, community, and environmental factors.

(2) Secure rights to the sites identified, including, but not limited to, fee simple acquisition, leaseholds, or options.

(3) Conduct any studies that may be necessary to construct and operate generation facilities at the site, including, but not limited to, environmental, engineering, or feasibility studies.

(4) Conduct all applicable public and community involvement processes.

(5) Apply for permits, licenses, or other local, state, or federal approvals, including, but not limited to, compliance with the applicable procedures of the Energy Commission.

(b) The Energy Commission may request proposals from qualified participating parties to purchase, lease, or otherwise acquire sites for the purpose of developing generation facilities that will provide the lowest cost power to consumers over the life of the facilities, consistent with Section 3351.

(c) The Energy Commission shall comply with all applicable air quality laws and regulations and the Warren-Alquist State Energy Resources Conservation and Development Act (Division 15 (commencing with Section 25000) of the Public Resources Code).

3365. The Energy Commission may provide loans, utilizing up to one billion dollars ($1,000,000,000) of the bond authority, under terms and conditions approved by the Energy Commission, to any participating party, which shall use that loan to make loans available to California consumers and businesses for all of the following purposes:

(a) The purchase of consumer appliances and home improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

(b) The purchase or lease of business equipment and facility improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

(c) Any other electric or natural gas energy conservation program or any program for the use of renewable energy resources, as approved by the Energy Commission, the commission,

or a participating local publicly owned electric utility, as applicable.

3366. As a condition of receipt of a loan pursuant to Section 3365, a participating party shall be required to conduct a comprehensive marketing program that makes consumers aware of the availability of these financial assistance programs, and to provide appropriate security for repayment of the loan, including, without limitation, a pledge to the Energy Commission of consumer and business loan repayments collected through utility bills, as applicable and a certification that the duration of a loan will not exceed the useful life of a purchase.

3367. The Energy Commission shall require that any equipment or improvement financed by a loan made pursuant to this article shall be certified as having been installed or completed.

3367.5. The Energy Commission may require that a participating party utilize a consumer protection plan for screening qualified contractors who serve consumers under this article.

3368. (a) The commission shall prepare and submit to the Energy Commission and to the Legislature, within 90 days of the effective date of the act adding this section, a report on the present, planned, and required future capacity of the state's natural gas transportation and storage system to provide adequate, seasonally reliable amounts of competitively priced natural gas to residential, commercial, and industrial customers, including, but not limited to, electric generating plants.

(b) The Energy Commission may provide financing for natural gas transportation or storage projects recommended to it by the commission. In recommending a project to the Energy Commission, the commission shall ensure that the project is in the public interest.

(c) Nothing in this section prevents the commission from acting on its own authority to direct gas corporations within its jurisdiction to construct, or facilitate the construction or operation, by the owners or operators of pipelines not within the jurisdiction of the commission, of, natural gas transportation and storage facilities as the commission determines to be needed to provide adequate, seasonally reliable amounts of competitively priced natural gas to residential, commercial, and industrial customers, including, but not limited to, electric generating plants.

3369. (a) Within 180 days of the effective date of this division, the Energy Commission, in consultation with the Independent System Operator, shall develop an Energy Resource Investment Plan and submit that plan to the Governor and the Joint Legislative Budget Committee and the chairs of the policy committees with jurisdiction over energy policy in the State of California.

(b) The Energy Resource Investment Plan shall take into account California's anticipated energy service needs for both electricity and natural gas over the next decade. The plan shall address issues regarding adequacy of supply, storage, reliability of service, grid congestion, and environmental quality. In developing the investment plan, the Energy Commission shall compare the costs of various energy resources, including a comparison of the costs and benefits of demand reduction strategies with the costs and benefits of additional generation supply. The plan shall acknowledge the potential volatility of fossil fuel prices and the value of resources that avoid that price risk.

(c) The plan shall outline a strategy for cost-effective energy resource investments, using the financing powers provided to the Energy Commission by this division. The plan may recommend changes to the specific expenditure authority granted in this division in order to carry out the investment strategy contained in the plan.

(d) The plan shall be developed with input from interested parties at scheduled public hearings of the Energy Commission. The Energy Commission shall adopt the plan by majority vote at a public meeting. The Energy Commission shall update the plan on a regular basis as determined by the Energy Commission.

(e) All investments made by the Energy Commission under this division shall be consistent with the strategy outlined in the Energy Resource Investment Plan. Nothing in this section shall preclude the Energy Commission from exercising its powers prior to the adoption of the initial Energy Resource Investment Plan.

(f) The Energy Commission shall be the agency responsible for ensuring that the investment strategy outlined in the Energy Resource Investment Plan is implemented. To that end, the Energy Commission may, on its own or through a partnership with a participating party, make those investments necessary to ensure that the plan is implemented.

3369.5. Nothing in this division shall be construed to obviate the need to review the roles, functions, and duties of other state energy oversight agencies and, where appropriate, change or consolidate those roles, functions, and duties. To achieve that efficiency, the Governor may propose to the Legislature a Governmental Reorganization Plan, pursuant to Section 8523 of the Government Code and Section 6 of Article V of the Constitution.

Chapter 3. California Consumer Power and Conservation Financing Fund

3370. (a) There is hereby created in the State Treasury the California Consumer Power and Conservation Financing Authority Fund for expenditure by the Energy Commission for the purpose of implementing the objectives and provisions of this division. For the purposes of subdivision (e), or as necessary or convenient to the accomplishment of any other purpose of the Energy Commission under this division, the Energy Commission may establish within the fund additional and separate accounts and subaccounts.

(b) The assets of the fund shall be available for the payment of the salaries and other expenses charged against it in accordance with this division.

(c) Except as provided under Section 3345, all moneys in the fund that are not General Fund moneys are continuously appropriated to the Energy Commission and may be used for any reasonable costs which may be incurred by the Energy Commission in the exercise of its powers under this division.

(d) The fund, on behalf of the Energy Commission, may borrow or receive moneys from the Energy Commission, or from any federal, state, or local agency or private entity, to create reserves in the fund as provided in this division and as authorized by the Energy Commission.

(e) The Energy Commission may pledge any or all of the moneys in the fund (including in any account or subaccount) as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division.

(f) The Energy Commission, may, from time to time, direct the Treasurer to invest moneys in the fund that are not required for the Energy Commission's current needs, including proceeds from

the sale of any bonds, in any securities permitted by law as the Energy Commission shall designate. The Energy Commission also may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The Energy Commission may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of the Government Code, excepting the Surplus Money Investment Fund.

Chapter 4. Bonds

3380.1. For the purposes provided in this division, the Energy Commission is authorized to incur indebtedness and to issue securities of any kind or class, at public or private sale by the Treasurer, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues. The Energy Commission may issue bonds for the purposes of this division in an amount not to exceed five billion dollars ($5,000,000,000), exclusive of any refundings.

3380.2. In connection with the issuance of bonds, in addition to the powers otherwise provided in this division, the Energy Commission may do all of the following:

(a) Issue, from time to time, bonds payable from and secured by a pledge of all or any part of the revenues in order to finance the activities authorized by this division, including, without limitation, an enterprise or multiple enterprises, a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties, and to sell those bonds at public or private sale by the Treasurer, in the form and on those terms and conditions as the Treasurer, as agent for sale, shall approve.

(b) Pledge all or any part of the revenues to secure bonds and any repayment or reimbursement obligations of the Energy Commission to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the payment or debt service on any bond.

(c) Employ and compensate bond counsel, financial consultants, underwriters, and other advisers determined necessary and appointed by the Treasurer in connection with the issuance and sale of any bond.

(d) Issue bonds to refund or purchase or otherwise acquire bonds on terms and conditions as the Treasurer, as agent for sale, shall approve.

(e) Perform all acts that relate to the function and purpose of the Energy Commission under this division, whether or not specifically designated in this chapter.

3381. Bonds issued by the Energy Commission are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds. The bonds issued under this division are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state, including, without limitation, local agencies, schools, and pension funds, for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

3382. The Energy Commission is authorized to obtain loans from the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code. These loans shall be subject to the terms negotiated with the Pooled Money Investment Board, including, but not limited to, a pledge of Energy Commission bond proceeds or revenues.

3383. Bonds issued under this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the Energy Commission, or a pledge of the faith and credit of the state or of any political subdivision, other than the Energy Commission, but shall be payable solely from the funds herein provided therefor. All bonds issued under

this division shall contain on the face thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond." The issuance of bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section shall prevent nor be construed to prevent the Energy Commission from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

CHAPTER 5. TERMINATION PROVISIONS

3384. The Energy Commission shall not finance or approve any new program, enterprise, or project under this division on or after January 1, 2007, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

SEC. 1283. Section 132355.4 of the Public Utilities Code is amended to read:

132355.4. (a) Whenever a majority of the employees employed by the consolidated agency in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, and upon determining that the labor organization represents at least a majority of the employees in the appropriate unit, the determination of questions concerning employee representation and the conduct of employee-employer relations for the consolidated agency shall be governed by the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(b) For the purposes of the wage orders of the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency*, the consolidated agency shall be considered a special district.

SEC. 1284. Section 185012 of the Public Utilities Code is amended to read:

185012. As used in this division, unless the context requires otherwise, the following terms have the following meanings:

(a) "Authority" ~~means the High-Speed Rail Authority~~ *or "High-Speed Rail Authority" means the California Transportation Commission*.

(b) "Commission" means the California Transportation Commission.

~~(b)~~

(c) "Department" means the Department of Transportation.

~~(c)~~

(d) "High-speed rail" means intercity passenger rail service that utilizes an alignment and technology that makes it capable of sustained speeds of 200 miles per hour or greater.

SEC. 1285. Section 185020 of the Public Utilities Code is repealed.

~~185020. (a) There is in state government a High-Speed Rail Authority.~~

~~(b) (1) The authority is composed of nine members as follows:~~

~~(A) Five members appointed by the Governor.~~

~~(B) Two members appointed by the Senate Committee on Rules.~~

~~(C) Two members appointed by the Speaker of the Assembly.~~

~~(2) For the purposes of making appointments to the authority, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall take into consideration geographical diversity to ensure that all regions of the state are adequately represented.~~

~~(c) Except as provided in subdivision (d), and until their successors are appointed, members of the authority shall hold office for terms of four years. A vacancy shall be filled by the appointing power making the original appointment, by appointing a member to serve the remainder of the term.~~

~~(d) (1) On and after January 1, 2001, the terms of all persons who are then members of the authority shall expire, but those members may continue to serve until they are reappointed or until their successors are appointed. In order to provide for evenly staggered terms, persons appointed or reappointed to the authority after January 1, 2001, shall be appointed to initial terms to expire as follows:~~

~~(A) Of the five persons appointed by the Governor, one shall be appointed to a term which expires on December 31, 2002, one shall be appointed to a term which expires on December 31, 2003, one shall be appointed to a term which expires on December 31, 2004, and two shall be appointed to terms which expires on December 31, 2005.~~

~~(B) Of the two persons appointed by the Senate Committee on Rules, one shall be appointed to a term which expires on December~~

~~31, 2002, and one shall be appointed to a term which expires on December 31, 2004.~~

~~(C) Of the two persons appointed by the Speaker of the Assembly, one shall be appointed to a term which expires on December 31, 2003, and one shall be appointed to a term which expires on December 31, 2005.~~

~~(2) Following expiration of each of the initial terms provided for in this subdivision, the term shall expire every four years thereafter on December 31.~~

~~(e) Members of the authority are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).~~

~~(f) From among its members, the authority shall elect a chairperson, who shall preside at all meetings of the authority, and a vice chairperson to preside in the absence of the chairperson. The chairperson shall serve a term of one year.~~

~~(g) Five members of the authority constitute a quorum for taking any action by the authority.~~

SEC. 1286. Section 185022 of the Public Utilities Code is repealed.

~~185022. (a) Each member of the authority shall receive compensation of one hundred dollars ($100) for each day that the member is attending to the business of the authority, but shall not receive more than five hundred dollars ($500) in any calendar month.~~

~~(b) Members of the authority shall be reimbursed for their actual travel expenses incurred in attending to the business of the authority.~~

SEC. 1287. Section 185024 of the Public Utilities Code is repealed.

~~185024. (a) The authority shall appoint an executive director, who shall serve at the pleasure of the authority, to administer the affairs of the authority as directed by the authority.~~

~~(b) The executive director is exempt from civil service and shall be paid a salary established by the authority and approved by the Department of Personnel Administration.~~

~~(c) The executive director may, as authorized by the authority, appoint necessary staff to carry out the provisions of this part.~~

SEC. 1288. Section 185025 is added to the Public Utilities Code, to read:

185025. (a) The California Transportation Commission hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction in matters vested by law in the High-Speed Rail Authority, which shall no longer exist.

(b) All regulations and orders adopted by the High-Speed Rail Authority and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the High-Speed Rail Authority or any of its predecessors shall mean the California Transportation Commission. Any action by or against the High-Speed Rail Authority or any of its predecessors shall not abate but shall continue in the name of the California Transportation Commission, and the California Transportation Commission shall be substituted for the High-Speed Rail Authority and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the High-Speed Rail Authority or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the California Transportation Commission assuming all of the rights, obligations, liabilities, and duties of the High-Speed Rail Authority and any of its predecessors. That assumption by the California Transportation Commission shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the High-Speed Rail Authority or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the California Transportation Commission. Any on-going obligations or responsibilities of the High-Speed Rail Authority for managing and maintaining bond issuances shall be transferred to the California Transportation Commission without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the High-Speed Rail Authority or any of its predecessors in carrying out any functions transferred to the California Transportation Commission shall be

available for use by the California Transportation Commission. All books, documents, records, and property of the High-Speed Rail Authority shall be transferred to the California Transportation Commission.

(e) Any officer or employee of the High-Speed Rail Authority who is performing a function transferred to the California Transportation Commission and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the California Transportation Commission pursuant to the provisions of Section 19050.9 of the Government Code. The status, position, and rights of any officer or employee of the High-Speed Rail Authority shall not be affected by the transfer and shall be retained by the person as an officer or employee of the California Transportation Commission, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 1289. Section 185030 of the Public Utilities Code is amended to read:

185030. The ~~authority~~ *commission* shall direct the development and implementation of intercity high-speed rail service that is fully integrated with the state's existing intercity rail and bus network, consisting of interlinked conventional and high-speed rail lines and associated feeder buses. The intercity network in turn shall be fully coordinated and connected with commuter rail lines and urban rail transit lines developed by local agencies, as well as other transit services, through the use of common station facilities whenever possible.

SEC. 1290. Section 185032 of the Public Utilities Code is amended to read:

185032. (a) (1) Upon an appropriation in the Budget Act for that purpose, the ~~authority~~ *commission* shall prepare a plan for the construction and operation of a high-speed train network for the state, consistent with and continuing the work of the Intercity High-Speed Rail Commission conducted prior to January 1, 1997 *and the High-Speed Rail Authority*. The plan shall include an appropriate network of conventional intercity passenger rail service and shall be coordinated with existing and planned commuter and urban rail systems.

(2) The authorization and responsibility for planning, construction, and operation of high-speed passenger train service at speeds exceeding 125 miles per hour in this state is exclusively granted to the ~~authority~~ *commission*.

(3) Except as provided in paragraph (2), nothing in this subdivision precludes other local, regional, or state agencies from exercising powers provided by law with regard to planning or operating, or both, passenger rail service.

(b) The plan, upon completion, shall be submitted to the Legislature and the Governor for approval by the enactment of a statute.

SEC. 1291. Section 185034 of the Public Utilities Code is amended to read:

185034. The ~~authority~~ *commission* may do any of the following:

~~(1)~~

(a) Conduct engineering and other studies related to the selection and acquisition of rights-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies, and financial feasibility studies.

~~(2)~~

(b) Evaluate alternative high-speed rail technologies, systems and operators, and select an appropriate high-speed rail system.

~~(3)~~

(c) Establish criteria for the award of a franchise.

~~(4)~~

(d) Accept grants, fees, and allocations from the state, from political subdivisions of the state or from the federal government, foreign governments, and private sources.

~~(5)~~

(e) Select a proposed franchisee, a proposed route, and proposed terminal sites.

~~(6)~~

(f) Enter into contracts with public and private entities for the preparation of the plan.

~~(7)~~

(g) Prepare a detailed financing plan, including any necessary taxes, fees, or bonds to pay for the construction of the high-speed train network.

~~(8)~~

(h) Develop a proposed high-speed rail financial plan, including necessary taxes, bonds, or both, or other indebtedness, and submit the plan to the Legislature and to the Governor.

~~(9)~~

(i) Keep the public informed of its activities.

SEC. 1292. Section 185036 of the Public Utilities Code is amended to read:

185036. Upon approval by the Legislature, by the enactment of a statute, or approval by the voters of a financial plan providing the necessary funding for the construction of a high-speed network, the ~~authority~~ *commission* may do any of the following:

(a) Enter into contracts with private or public entities for the design, construction and operation of high-speed trains. The contracts may be separated into individual tasks or segments or may include all tasks and segments, including a design-build or design-build-operate contract.

(b) Acquire rights-of-way through purchase or eminent domain.

(c) Issue debt, secured by pledges of state funds, federal grants, or project revenues. The pledge of state funds shall be limited to those funds expressly authorized by statute or voter-approved initiatives.

(d) Enter into cooperative or joint development agreements with local governments or private entities.

(e) Set fares and schedules.

(f) Relocate highways and utilities.

SEC. 1293. Section 185038 of the Public Utilities Code is amended to read:

185038. Any legal or equitable action brought against the ~~authority~~ *commission* shall be brought in a court of competent jurisdiction in the County of Sacramento. For purposes of this section, subdivision (1) of Section 401 of the Code of Civil Procedure does not apply.

SEC. 1294. Section 431 of the Revenue and Taxation Code is amended to read:

431. For purposes of this article, the following terms have the following meaning:

(a) "Timber" means trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned lands, including Christmas trees, but does not mean nursery stock.

(b) "Timberland" means land zoned pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code.

(c) "Timber Advisory Committee" means a standing committee appointed by the board composed of one representative of the Board of Equalization, one representative of the ~~State Board~~ *Department* of Forestry and Fire Protection, five assessors from the rate adjustment counties defined in Section 38105, and one member representing small-scale timber owners, and one member representing large-scale timber owners.

SEC. 1295. Section 17053.34 of the Revenue and Taxation Code is amended to read:

17053.34. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section

11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) Food stamps.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member

of a targeted group as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any passthrough entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23634 shall be allowed to the passthrough entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "passthrough entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause

(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23634, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year

and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(h) For purposes of this section, "targeted tax area" means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area expiration date, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

SEC. 1296. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including

a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(4) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) An ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) Food stamps.

(IV) State and local general assistance.

(viii) Is a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(5) "Qualified taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator

of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the LAMBRA, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to Section 7114.2 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that

taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of

the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that individual is replaced by other qualified displaced employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's net tax for the taxpayer's second taxable year.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(g) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 17053.45, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the net income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable

years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

SEC. 1297. Section 17053.47 of the Revenue and Taxation Code is amended to read:

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the manufacturing enhancement area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the manufacturing enhancement area within the 60-month period prior to the manufacturing enhancement area expiration date shall continue to qualify for the credit under this section after the manufacturing enhancement area expiration date, in accordance with all provisions of this section applied as if the manufacturing enhancement area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Manufacturing enhancement area" means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Manufacturing enhancement area expiration date" means the date the manufacturing enhancement area designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a manufacturing enhancement area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the manufacturing enhancement area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a manufacturing enhancement area in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.

(6) "Qualified taxpayer" means any taxpayer engaged in a trade or business within a manufacturing enhancement area designated pursuant to Section 7073.8 of the Government Code and who meets all of the following requirements:

(A) Is engaged in those lines of business described in Codes 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 50 percent of the qualified taxpayer's workforce hired after the designation of the manufacturing enhancement area is composed of individuals who, at the time of hire, are residents of the county in which the manufacturing enhancement area is located.

(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the

regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that qualified disadvantaged individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(f) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce

the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a manufacturing enhancement area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the manufacturing enhancement area. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a manufacturing enhancement area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the manufacturing enhancement area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the manufacturing enhancement area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (g).

(i) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(j) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

SEC. 1298. Section 17053.74 of the Revenue and Taxation Code is amended to read:

17053.74. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728,

inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,

or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) Food stamps.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member

of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for

the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the

seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17 and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable

years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

SEC. 1299. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(a) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

(b) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(c) Payment of delinquent wages collected pursuant to the Labor Code.

(d) Payment of delinquencies collected under Section 10878.

(e) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(f) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.

(g) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.

(h) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.

(i) Payment of delinquencies referred by the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(j) Notwithstanding the payment priority established by this section, voluntary payments made by a taxpayer designated by the taxpayer as payment for a personal income tax liability, shall not be applied pursuant to this priority, but shall instead be applied solely to the personal income tax liability for which the voluntary payment was made.

SEC. 1300. Section 19557 of the Revenue and Taxation Code is amended to read:

19557. (a) Notwithstanding any other provision of law, the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid* may annually inform the Franchise Tax Board of the names and social security numbers of the following persons who have, as part of the Student Aid Application for California, signed an authorization in a form and manner mutually agreeable to the Franchise Tax Board and the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid* for the release by the Franchise Tax Board of tax information to the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid*:

(1) All applicants for, or recipients of, student financial aid.

(2) Parents of dependent applicants for, or recipients of, student financial aid.

(3) Spouses of applicants for, or recipients of, student financial aid.

(b) The ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid* shall submit the names and social security numbers as authorized in subdivision (a) in the form and manner prescribed by the Franchise Tax Board.

(c) Upon receipt of this information, the Franchise Tax Board may provide the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid*, from state tax returns of individuals described in subdivision (a), their California adjusted gross income and the California income adjustments as are necessary to calculate their federal adjusted gross income, or any other information from their state tax return, that can be provided by the Franchise Tax Board through its automated process, that the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid* needs to administer the program for which the authorization was given.

(d) All versions of the Student Aid Application for California shall include the authorization described in subdivision (a). The Franchise Tax Board may from time to time audit these authorizations. All processors of the Student Aid Application for California shall provide the Franchise Tax Board with access to any records necessary for completing these audits. The Franchise Tax Board shall report all audit findings to the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(e) Any unwarranted disclosure or use of the tax information described in subdivision (c) by the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid*, or its employees and officers thereof, is a misdemeanor as provided in Section 19552.

SEC. 1301. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the "tax" (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was ~~self-employed~~ *self-employed* (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture

industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) Food stamps.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code).

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the

expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment

with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in

Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which

the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

SEC. 1302. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the manufacturing enhancement area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the manufacturing enhancement area within the 60-month period prior to the manufacturing enhancement area expiration date shall continue to qualify for the credit under this section after the manufacturing enhancement area expiration date, in accordance with all provisions of this section applied as if the manufacturing enhancement area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Manufacturing enhancement area" means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Manufacturing enhancement area expiration date" means the date the manufacturing enhancement area designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a manufacturing enhancement area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the manufacturing enhancement area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a manufacturing enhancement area in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.

(6) "Qualified taxpayer" means any corporation engaged in a trade or business within a manufacturing enhancement area designated pursuant to Section 7073.8 of the Government Code and that meets all of the following requirements:

(A) Is engaged in those lines of business described in Codes 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 50 percent of the qualified taxpayer's workforce hired after the designation of the manufacturing enhancement area is composed of individuals who, at the time of hire, are residents of the county in which the manufacturing enhancement area is located.

(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each member shall be determined by reference to its proportionate share of the expenses of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the income year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the

regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that qualified disadvantaged individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified disadvantaged individual continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a manufacturing enhancement area determined as if

that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the manufacturing enhancement area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a manufacturing enhancement area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For the purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the manufacturing enhancement area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the manufacturing enhancement area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g).

(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(i) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office

or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

SEC. 1303. Section 23634 of the Revenue and Taxation Code is amended to read:

23634. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined by Section 23036) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section

11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

~~(aa)~~

(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

~~(bb)~~

(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

~~(cc)~~

(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

~~(dd)~~

(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

~~(ee)~~

(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

~~(ff)~~

(if) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

~~(gg)~~

(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

~~(hh)~~

(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Aid to Families with Dependent Children.

~~(cc)~~

(ic) Food stamps.

~~(dd)~~

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member

of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any passthrough entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.34 shall be allowed to the passthrough entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term "passthrough entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause

(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of

the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) Rules similar to the rules provided in Sections 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(h) For purposes of this section, "targeted tax area" means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value

of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

SEC. 1304. Section 23646 of the Revenue and Taxation Code is amended to read:

23646. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operation of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(4) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) An ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) Food stamps.

(IV) State and local general assistance.

(viii) Is a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(5) "Qualified taxpayer" means a corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees as determined below in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a qualified taxpayer that first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base that has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the administrative entity of the local county or city for the federal Job Training Partnership Act, or its successor, the local county GAIN office or social services agency, or the local government administering the LAMBRA, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of

Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to Section 7114.2 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

(2) For purposes of this subdivision, "controlled group of corporations" has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that both of the following apply:

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to Section 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue Code.

(3) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment of any employee, other than seasonal employment, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior income years

attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by either of the following:

(i) A transaction to which Section 381(a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation.

(ii) A mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit

previously claimed shall be added to the taxpayer's tax for the taxpayer's second taxable year.

(f) In the case of an organization to which Section 593 of the Internal Revenue Code applies, and a regulated investment company or a real estate investment trust subject to taxation under this part, rules similar to the rules provided in Section 46(e) and Section 46(h) of the Internal Revenue Code shall apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor,

and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

SEC. 1305. Section 24357.8 of the Revenue and Taxation Code is amended to read:

24357.8. (a) In the case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357, shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified research contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b)(1)(A)(ii) of Section 170 of the Internal

Revenue Code and which is an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code of 1954) in California.

(2) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of Section 24365), or for research training, in physical, applied, or biological sciences, or for instructional purposes.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with this section, and with respect to property substantially all of the use of which is for instructional purposes, the taxpayer receives from the donee a written statement representing that the property will be used as an integral part of the instructional program. In the case of a computer, the statement shall also represent that the donee has acquired or will acquire, necessary basic operational software and the means to provide trained staff to utilize the property.

(7) The contribution is made on or after July 1, 1983, and on or before December 31, 1993.

(8) The taxpayer shall report to the Franchise Tax Board, on forms prescribed by the board, the name and address of the recipient educational organization, a description of the qualified charitable contribution, the fair market value of the contribution, and the date the contribution was made. The taxpayer shall forward a copy of the forms, along with the written statements prescribed in paragraph (6), to the following:

(A) The President of the University of California, in the case of contributions to institutions within the University of California system.

(B) ~~California Postsecondary Education Commission~~ *The Office of Higher Education and Financial Aid,* in the case of contributions to private institutions.

(C) The Chancellor of the California State University, in the case of contributions to institutions within the California State University system.

(D) The Chancellor of the California Community Colleges, in the case of contributions to institutions within the California Community College system.

(c) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code).

SEC. 1306. Section 101.3 of the Streets and Highways Code is amended to read:

101.3. The department shall submit all plans and specifications for any bridge or other structure across any river or other drainage channel or basin subject to the jurisdiction of the ~~Reclamation Board~~ *Department of Water Resources* for approval in accordance with ~~the provisions of the Reclamation Board Act~~ *Part 4 (commencing with Section 8520) of Division 5 of the Water Code*, and shall not construct any ~~such~~ bridge or structure without the approval of the ~~said board~~ *Department of Water Resources*. Whenever a bridge or other structure has been constructed according to plans and specifications ~~which~~ *that* have been approved by the ~~Reclamation Board~~ *Department of Water Resources*, no change in or replacement or relocation of ~~such~~ *the* bridge or structure shall be required by ~~said board~~ *the Department of Water Resources* from funds appropriated for highway purposes without the consent of the department.

SEC. 1307. Section 30914.5 of the Streets and Highways Code is amended to read:

30914.5. (a) Prior to the allocation of revenue for transit operating assistance under subdivision (d) of Section 30914, the Metropolitan Transportation Commission shall adopt performance measures related to fare-box recovery, ridership, and other performance measures as needed. The performance measures shall be developed in consultation with the affected transit operators and the commission's advisory council.

(b) The Metropolitan Transportation Commission shall execute an operating agreement with the sponsors of the projects described in subdivision (d) of Section 30914. This agreement shall include, at a minimum, a fully funded operating plan that conforms to and is consistent with the adopted performance measures. The

agreement shall also include a schedule of projected fare revenues or other operating revenues to indicate that the service is viable in the near-term and is expected to meet the adopted performance measures in future years. For any individual project sponsor, this operating agreement may include additional requirements, as determined by the commission, to be met prior to the allocation of transit assistance under subdivision (d) of Section 30914.

(c) Prior to the annual allocation of transit operating assistance funds by the Metropolitan Transportation Commission pursuant to subdivision (d) of Section 30914, the Metropolitan Transportation Commission shall conduct, or shall require the sponsoring agency to conduct, an independent audit that contains audited financial information, including an opinion on the status and cost of the project and its compliance with the approved performance measures. Notwithstanding this requirement, each operator shall be given a one-year trial period to operate new service. In the first year of new service, the sponsor shall develop a reporting and accounting structure for the performance measures. Commencing with the third operating year, sponsors shall be subject to the approved performance measures.

(d) The Metropolitan Transportation Commission shall adopt a regional transit connectivity plan by May 1, 2006. The connectivity plan shall be incorporated into the commission's Transit Coordination Implementation Plan pursuant to Section 66516.5 of the Government Code. The connectivity plan shall require operators to comply with the plan utilizing commission authority pursuant to Section 66516.5 of the Government Code. The commission shall consult with the Partnership Transit Coordination Council in developing a plan that identifies and evaluates opportunities for improving transit connectivity and shall include, but not be limited to, the following components:

(1) A network of key transit hubs connecting regional rapid transit services to one another, and to feeder transit services. "Regional rapid transit" means long-haul transit service that crosses county lines, and operates mostly in dedicated rights-of-way, including freeway high-occupancy vehicle lanes, crossing a bridge, or on the bay. The identified transit hubs shall operate either as a timed transfer network or as pulsed hub connections, providing regularly scheduled connections between two or more transit lines.

(2) Physical infrastructure and right-of-way improvements necessary to improve system reliability and connections at transit hubs. Physical infrastructure improvements may include, but are not limited to, improved rail-to-rail transfer facilities, including cross-platform transfers, and intermodal transit improvements that facilitate rail-to-bus, rail-to-ferry, ferry-to-ferry, ferry-to-bus, and bus-to-bus transfers. Capital improvements identified in the plan shall be eligible for funding in the commission's regional transportation plan.

(3) Regional standards and procedures to ensure maximum coordination of schedule connections to minimize transfer times between transit lines at key transit hubs, including, but not limited to, the following:

(A) Policies and procedures for improved fare collection.

(B) Enhanced trip-planning services, including Internet-based programs, telephone information systems, and printed schedules.

(C) Enhanced schedule coordination through the implementation of real-time transit-vehicle location systems that facilitate communication between systems and result in improved timed transfers between routes.

(D) Performance measures and data collection to monitor the performance of the connectivity plan.

The connectivity plan shall focus on, but not be limited to, feeder transit lines connecting to regional rapid transit services, and the connection of regional rapid transit services to one another. The connectivity plan shall be adopted following a Metropolitan Transportation Commission public hearing at least 60 days prior to adoption. The commission shall adopt performance measures and collect appropriate data to monitor the performance of the connectivity plan. The plan shall be evaluated every three years by the commission as part of the update to its regional transportation plan. No agency shall be eligible to receive funds under this section unless the agency is a participant operator in the commission's regional transit connectivity plan.

The provisions of this subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921, and the expenditures incurred by the Metropolitan Transportation Commission up to five hundred thousand dollars ($500,000) that are related to the requirements of this subdivision, including any

study, shall be reimbursed from toll revenues identified in paragraph (33) of subdivision (c) of Section 30914.

(e) The TransLink Consortium, per the TransLink Interagency Participation Agreement, shall, by July 1, 2008, develop a plan for an integrated fare program covering all regional rapid transit trips funded in full or in part by this section. "Regional rapid transit" means long-haul transit services that cross county lines, and operate mostly in dedicated rights-of-way, including freeway high-occupancy vehicle lanes, crossing a bridge, or on the bay. Interregional rail services, originating or terminating from outside the Bay Area, shall not be considered regional rapid transit. The purpose of the integrated fare program is to encourage greater use of the region's transit network by making it easier and less costly for transit riders whose regular commute involves multizonal travel and may involve the transfer between two or more transit agencies, including regional-to-regional and regional-to-local transfers. The integrated fare program shall include a zonal fare system for the sole purpose of creating a monthly zonal pass (monthly pass), allowing for unlimited or discounted fares for transit riders making a minimum number of monthly transit trips between two or more zones. The number of minimum trips shall be established by the plan. The integrated fare program shall not apply to fare structures that are not purchased on a monthly basis. For the purposes of these zonal fares, geographic zones shall be created in the Bay Area. To the extent practical, zone boundaries for overlapping systems shall be in the same places and shall correspond to the boundaries of the local transit service areas. A regional rapid transit zone may cover more than one local service area, or may subdivide an existing local service area. The monthly pass shall be created in at least the following two forms:

(1) For the use of interzonal regional rapid transit trips without local transit discounts.

(2) For the use of interzonal regional rapid transit trips with local transit discounts. The plan may recommend the elimination of existing transit pass arrangements to simplify the marketing of the monthly pass. The integrated fare program shall establish a monitoring program to evaluate the impact of the integrated fare program on the operating finances of the participating agencies. The integrated fare program shall be adjusted as necessary to ensure that the program does not jeopardize the viability of local or

regional rapid transit routes impacted by the program, and to the extent feasible, provide an equitable revenue-sharing arrangement among the participating agencies. This subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921, and any expenditures related to the implementation of this subdivision incurred by the TransLink Consortium shall be reimbursed by toll revenues designated in paragraph (34) of subdivision (c) of Section 30914.

(f) The Metropolitan Transportation Commission (MTC) shall, by September 29, 2007, adopt a Bay Area Regional Rail Plan (plan) for the development of passenger rail services in the San Francisco Bay Area over the short, medium, and long term. Up to six million dollars ($6,000,000) of the funds described in paragraph (33) of subdivision (c) of Section 30914 may be expended by MTC, the San Francisco Bay Area Rapid Transit District (BART), and the Peninsula Corridor Joint Powers Board (Caltrain) for the plan. A project management team comprised of staff from MTC, Caltrain, the High-Speed Rail Authority, and BART shall provide day-to-day project management of the technical development of the plan. The plan shall formulate strategies to integrate passenger rail systems, improve interfaces with connecting services, expand the regional rapid transit network, and coordinate investments with transit-supportive land use. The plan shall be directed by a steering committee consisting of appointees from the Department of Transportation (Caltrans), BART, Caltrain, the National Railroad Passenger Corporation (Amtrak), the Capitol Corridor Joint Powers Authority, the Altamont Commuter Express, the ~~High-Speed Rail Authority~~ *California Transportation Commission*, MTC, the Sonoma-Marin Area Rail Transit District (SMART), the Santa Clara Valley Transportation Authority, the Solano Transportation Authority, the Association of Bay Area Governments, the Transbay Joint Powers Authority, the Port of Oakland, the Alameda County Congestion Management Agency, the Contra Costa Transportation Authority, the Transportation Authority of Marin, the Napa County Transportation Planning Agency, the San Francisco County Transportation Authority, the San Mateo City-County Association of Governments, the San Francisco Municipal Transportation Agency, and the owners of standard gauge rail. Under direction from the steering committee and with input from Bay Area transit agencies, MTC shall act as the fiscal agent for the study and

oversee consultant contracts on behalf of the project management team. The plan proposals shall be evaluated using performance criteria, including, but not limited to, transit-supportive land use and access, ridership, cost-effectiveness, regional network connectivity, and capital and operating financial stability. Additional performance criteria shall be developed as necessary. The plan shall include, but not be limited to, all of the following:

(1) Identification of issues in connectivity, access, capacity, operations, and cost-effectiveness.

(2) Identification of opportunities to enhance rail connectivity and to maximize passenger convenience when transferring between systems, including the study of the feasibility and construction of an intermodal transfer hub at Niles (Shinn Street) Junction.

(3) Recommendation of improvements to the interface with shuttles, buses, other rail systems, and other feeder modes.

(4) Identification of potential impacts on capacity constraints and operations on existing passenger and freight carriers.

(5) Identification of bottlenecks where added capacity could cost-effectively increase performance.

(6) Recommendation of potential efficiency improvements through economies of scale, such as through joint vehicle procurement and maintenance facilities.

(7) Recommendation of strategies to acquire right-of-way and station property to preserve future service options.

(8) Identification of potential capital and operating funding sources for proposed actions.

(9) Identification of locations where the presence of passenger rail could stimulate redevelopment and thereby direct growth to the urban core.

(10) Recommendation of technology-appropriate service expansion in specific corridors. Technologies to be considered include conventional rail transit modes, bus rapid transit, and emerging rail technologies. Identify phasing strategies for the implementation of rail services where appropriate.

(11) Examination of how recommendations would integrate with proposed high-speed rail to the Central Valley and southern California. The intent of this element of the study is to help reduce the number of alternatives that the ~~High-Speed Rail Authority~~ *California Transportation Commission* would need to evaluate as part of any follow-on environmental assessment of future

high-speed rail system access to the Bay Area. Selection of a preferred alignment for the Bay Area shall remain the responsibility of the ~~High-Speed Rail Authority pursuant to Section 185032 of the Public Utilities Code~~ *California Transportation Commission*.

(12) Recommendation of a governance strategy to implement and operate future regional rail services.

This subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921. Any expenditures incurred by the Metropolitan Transportation Commission or the project sponsors identified in paragraph (33) of subdivision (c) of Section 30914 related to the requirements of this subdivision, including any study and administration, shall be appropriate charges against toll revenue to be reimbursed from toll revenues.

SEC. 1308. Section 401 of the Unemployment Insurance Code is amended to read:

401. There is in the department an Appeals Division consisting of the ~~California Unemployment Insurance~~ *Employment and Benefits* Appeals Board and its employees. ~~The appeals board consists of seven members. Five members shall be appointed by the Governor, subject to the approval of the Senate. One member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Senate Rules Committee. Two of the members of the appeals board shall be attorneys at law admitted to practice in the State of California. The other members need not be attorneys. Each member of the board shall devote his full time to the performance of his duties. The chairman and each member of the board shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. The Governor shall designate the chairman of the appeals board from the membership of the appeals board. The person so designated shall hold the office of chairman at the pleasure of the Governor. The chairman shall designate a member of the appeals board to act as chairman in his absence.~~

SEC. 1309. Section 402 of the Unemployment Insurance Code is repealed.

~~402. Each member of the appeals board shall serve for a term of four years and until his successor is appointed and qualifies. The term of office of each member of the board appointed pursuant to the 1967 amendment to this section shall also be for four years;~~

~~provided, however, that of the two board members first appointed pursuant to such amendments, one shall be appointed for a term which shall expire July 1, 1970, and one for a term which shall expire July 1, 1971.~~

~~A vacancy shall be filled by the appointing power by appointment for the unexpired term. A vacancy filled by the Governor shall be subject to the approval of the Senate.~~

SEC. 1310. Section 10529 of the Unemployment Insurance Code is amended to read:

10529. (a) The services provided by the existing labor market information system within the department shall include workforce and economic information that does all of the following:

(1) Provides data and information to the state Workforce Investment Board created pursuant to Section 2821 of Title 29 of the United States Code, to enable the board to plan, operate, and evaluate investments in the state's workforce preparation system that will make the California economy more productive and competitive.

(2) Provides data and information to the California Economic Strategy Panel for continuous strategic planning and the development of policies for the growth and competitiveness of the California economy.

(3) Identifies and combines information from various state data bases to produce useful, geographically based analysis and products, to the extent possible using existing resources.

(4) Provides technical assistance related to accessing workforce and economic information to local governments, public-sector entities, research institutes, nonprofit organizations, and community groups that have various levels of expertise, to the extent possible using existing resources.

(b) The department shall coordinate with the State Department of Education, the Chancellor of the California Community Colleges, the State Department of Social Services, the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*, the Department of Finance, and the Franchise Tax Board in developing economic and workforce information. The department shall also solicit input in the operation of the program from public and private agencies and individuals that make use of the labor market information provided by the department.

SEC. 1311. Section 5024 of the Vehicle Code is amended to read:

5024. (a) Any person described in Section 5101 may also apply for a set of commemorative collegiate reflectorized license plates, and the department shall issue those special license plates in lieu of the regular license plates. The collegiate reflectorized plates shall be of a distinctive design, and shall be available in a special series of letters or numbers, or both, as determined by the department. The collegiate reflectorized plates shall also contain the name of the participating institution as well as the reflectorized logotype, motto, symbol, or other distinctive design, as approved by the department, representing the participating university or college selected by the applicant.

(b) Any public or private postsecondary educational institution in the state, which is accredited or has been accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges, may indicate to the department its decision to be included in the commemorative collegiate license plate program and submit its distinctive design for the logotype, motto, symbol, or other design. However, no public or private postsecondary educational institution may be included in the program until not less than 5,000 applications are received for license plates containing that institution's logotype, motto, symbol, or other design. Each participating institution shall collect and hold applications for collegiate license plates until it has received at least 5,000 applications. Once the institution has received at least 5,000 applications, it shall submit the applications, along with the necessary fees, to the department. Upon receiving the first application, the institution shall have one calendar year to receive the remaining required applications. If, after that one calendar year, 5,000 applications have not been received, the institution shall refund to all applicants any fees or deposits which have been collected.

(c) In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following commemorative collegiate license plate fees shall be paid:

(1) Fifty dollars ($50) for the initial issuance of the plates. These plates shall be permanent and shall not be required to be replaced.

(2) Forty dollars ($40) for each renewal of registration which includes the continued display of the plates.

(3) Fifteen dollars ($15) for transfer of the plates to another vehicle.

(4) Thirty-five dollars ($35) for replacement plates, if the plates become damaged or unserviceable.

(d) When payment of renewal fees is not required as specified in Section 4000, or when the person determines to retain the commemorative collegiate license plates upon sale, trade, or other release of the vehicle upon which the plates have been displayed, the person shall notify the department and the person may retain the plates.

(e) Of the revenue derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, one-half shall be deposited in the California Collegiate License Plate Fund, which is hereby created, and one-half shall be deposited in the Resources License Plate Fund, which is hereby created.

(f) The money in the California Collegiate License Plate Fund is, notwithstanding Section 13340 of the Government Code, continuously appropriated to the Controller for allocation as follows:

(1) To the governing body of participating public institutions in the proportion that funds are collected on behalf of each, to be used for need-based scholarships, distributed according to federal student aid guidelines.

(2) With respect to funds collected on behalf of accredited nonprofit, private, and independent colleges and universities in the state, to the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid* for grants to students at those institutions, in the proportion that funds are collected on behalf of each institution, who demonstrate eligibility and need in accordance with the Cal Grant Program pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code, but who did not receive an award based on a listing prepared by the ~~California Student Aid Commission~~ *Office of Higher Education and Financial Aid*.

(g) The scholarships and grants shall be awarded without regard to race, religion, creed, sex, or age.

(h) The money in the Resources License Plate Fund is available, upon appropriation, for the purposes of natural resources preservation, enhancement, and restoration.

(i) All revenues deposited in, and expenditures from, the California Collegiate License Plate Fund shall be audited by the Auditor General on December 1, 1993, and December 1, 1995.

SEC. 1312. Section 22511.11 of the Vehicle Code is amended to read:

22511.11. (a) The Office of the State Architect shall propose regulations specifying the location of disabled person parking stalls or spaces designated pursuant to Section 22511.8, for parking facilities constructed or reconstructed pursuant to a building permit issued on or after October 1, 1993. In specifying the placement of those stalls or spaces near buildings or facilities and within parking structures, consideration shall be given to the special access needs of disabled persons.

(b) The Office of the State Architect shall submit the regulations proposed pursuant to subdivision (a) to the ~~State Building Standards Commission~~ *Department of General Services* on or before July 1, 1993, for approval, adoption, and publication in Title 24 of the California Code of Regulations.

SEC. 1313. Section 34501.9 of the Vehicle Code is amended to read:

34501.9. (a) Nothing in this division or the regulations adopted under this division is intended to, or shall, affect the rate of payment of wages, including, but not limited to, regular, premium, or overtime rates, paid to any person whether for on-duty hours or driving hours or otherwise.

(b) Nothing in this division or the regulations adopted under this division is intended to, or shall, affect the regulations adopted pursuant to other provisions of law concerning the rate or rates of payment of wages by any other public agency, including, but not limited to, the ~~Industrial Welfare Commission~~ *Labor and Workforce Development Agency* or the Division of Labor Standards Enforcement of the Department of Industrial Relations.

SEC. 1314. Article 2 (commencing with Section 150) of Chapter 2 of Division 1 of the Water Code is repealed.

SEC. 1315. Article 2 (commencing with Section 150) is added to Chapter 2 of Division 1 of the Water Code, to read:

Article 2. State Water Project

150. The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdictions of the California Water Commission.

151. All officers and employees of the California Water Commission who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

152. The department shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the California Water Commission.

153. (a) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(b) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

(c) No contract, lease, license, bond, or any other agreement to which the California Water Commission is a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the department assuming all of the rights, obligations, liabilities, and duties of the California Water Commission. That assumption by the department shall not in any

way affect the rights of the parties to the contract, lease, license, or agreement.

(d) The unexpended balance of all funds available for use by the California Water Commission in carrying out any functions transferred to the department shall be available for use by the department.

154. The department shall have the power to name all facilities of the State Water Resources Development System owned by the state. The department may receive testimony from the public on matters involving its responsibilities under this section, and, after public hearing for the purpose of considering all proposed names for those facilities, may, by resolution, express its decision regarding the naming of specific facilities of the State Water Resources Development System.

155. The department, in accordance with Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code, may hold any hearings and conduct any investigations in any part of the state necessary to carry out this article.

156. The department shall conduct an annual review of the progress of construction and operation of the State Water Resources Development System, and notwithstanding Section 7550.5 of the Government Code, shall make a report on its findings to the Legislature, together with whatever recommendations it deems appropriate.

157. The department shall hold public hearings on all additional facilities proposed to be added to the State Water Resources Development System by the department pursuant to the authority granted by Sections 12931 and 12938.

SEC. 1316. Section 7045 of the Water Code is amended to read:

7045. No acts authorized by this chapter shall limit the powers of the ~~Department of Water Resources~~ *department* to accomplish in its own way the purposes of this chapter nor interfere with the construction of any flood control works in accordance with any plan of flood control adopted by the ~~Reclamation Board~~ *department*.

SEC. 1317. Section 7047 of the Water Code is amended to read:

7047. *(a)* No person may alter, divert, or deflect the course of any nonnavigable stream in any surface mining dredging operation without first obtaining the approval of the board of supervisors of the county in which dredging is being done.

~~Nothing~~

(b) Nothing in this section shall be construed as conflicting with the powers of the ~~State Reclamation Board~~ *department* or the California Debris Commission or contractors or permittees carrying out flood control projects under authority of ~~either board or~~ *the department or the* commission.

SEC. 1318. Section 8402 of the Water Code is amended to read:

8402. Unless the context otherwise requires, the following definitions apply throughout this chapter:

(a) "Department" means Department of Water Resources.

~~(b) "Board" means the State Reclamation Board.~~

~~(c) Wherever the words "department or board" or "department and board" are used together in this chapter they shall mean board as to any area within a project which by law is under the jurisdiction of the State Reclamation Board, and the department in all areas of the state outside these areas.~~

~~(d) "Public agency" means any city, city and county, county, or district organized, existing, and acting pursuant to the laws of this state.~~

~~(e)~~

(b) "Design flood" means the selected flood against which protection is provided, or eventually will be provided, by means of flood protective or control works. When a federal survey has been authorized the design flood will be determined by the appropriate federal agency and in all other cases it will be determined by the responsible local agency. It is the basis for design and operation of a particular project after full consideration of flood characteristics, frequencies, and potentials and economic and other practical considerations.

~~(f)~~

(c) "Designated floodway" means the channel of a stream and that portion of the adjoining flood plain required to reasonably provide for the construction of a project for passage of the design flood including the lands necessary for construction of project levees.

(d) "Public agency" means any city, city and county, or district organized, existing, and acting pursuant to the laws of this state.

~~(g)~~

(e) "Restrictive zone" means the portion of the natural floodway between the limits of the designated floodway and the limits of the flood plain where inundation may occur but where depths and velocities are generally low.

SEC. 1319. Section 8403 of the Water Code is amended to read:

8403. Prior to the establishment by a public agency of flood plain management regulations, the public agency may request and receive a review by the department ~~or the board~~ of the public agency's flood plain management plans and shall furnish with the request necessary hydrologic studies, including flood routings or surveys adequate to properly delineate flood plain categories together with ~~such~~ *any* additional supporting data ~~as~~ *that* the department ~~or the board~~ may require.

SEC. 1320. Section 8404 of the Water Code is amended to read:

8404. Where adequate personnel are not available to a public agency to prepare the necessary flood routing or other engineering data needed for support of its flood plain management plans, the department ~~or board~~ may, upon request of the public agency, make or cause to be made the necessary investigation and provide the data to the requesting public agency for its use in developing ~~such~~ *those* plans. The cost of ~~such~~ *the* investigations shall be borne by the public agency making the request.

SEC. 1321. Section 8412 of the Water Code is amended to read:

8412. The department ~~or board~~ shall review the adequacy of flood plain regulations established by a public agency to meet the requirements of Section 8411, and shall notify the appropriate public agency in the event the flood plain regulations are determined by the department ~~or board~~ to be inadequate to comply with the requirements of Section 8411. The department ~~or board~~ may recommend any provisions necessary to provide adequate flood plain regulations. ~~Any such~~ *The* public agency shall, within 180 days of receipt of the notice from the department ~~or board~~, adopt new flood plain regulations. Upon their adoption, a copy of

~~such~~ *the* flood plain regulations shall be sent to the department ~~or board~~.

SEC. 1322. Section 8413 of the Water Code is amended to read:

8413. Flood plain regulations adopted pursuant to Section 8412 shall take effect 60 days from the date of adoption by the public agency and shall be deemed to meet the requirements of Section 8411 unless the department ~~or board~~ determines that ~~such~~ *the* flood plain regulations are not adequate to comply with the requirements of Section 8411. If the department ~~or board~~ makes such a determination, it shall so report to the public agency and shall recommend ~~such~~ *the* regulations or modifications of the regulations of the agency~~, which~~ *that* it determines are necessary.

SEC. 1323. Section 8414 of the Water Code is amended to read:

8414. If a public agency fails to adopt flood plain regulations pursuant to Section 8411, ~~or~~ fails to adopt new flood plain regulations within 180 days of receipt of the department's ~~or board's~~ notice pursuant to Section 8412, or fails to adopt or modify ~~such~~ regulations in the manner determined as necessary by the department ~~or board~~ pursuant to Section 8413 within 90 days of receipt of the department's ~~or board's~~ notice pursuant to Section 8413, the local flood control agency having jurisdiction over the project area may adopt flood plain regulations for the designated floodway necessary to comply with the requirements of Section 8411. ~~Such~~ *The* flood plain regulations adopted by the local flood control agency shall take effect 30 days from the date of their adoption and shall be enforced by the public agency and have the same force and effect as if adopted as flood plain regulations by the public agency.

SEC. 1324. Section 8414.2 of the Water Code is amended to read:

8414.2. No public agency shall revise flood plain regulations established to meet the requirements of Section 8411 or shall grant a variance from ~~such~~ *the* regulations without the consent of the department ~~or board~~ and of the local flood control agency having jurisdiction over the project area.

SEC. 1325. Section 8415 of the Water Code is amended to read:

8415. The department ~~and the board, within their respective jurisdictions as provided in this chapter,~~ shall establish general policy and may prescribe ~~such~~ rules and regulations ~~as~~ *that* may be necessary to carry out this chapter.

SEC. 1326. Section 8451 of the Water Code is amended to read:

8451. It is the intent of the Legislature, in providing for state participation in the additional costs attributable to the non-flood-control activities described in this chapter, that the ~~Reclamation Board and the Department of Water Resources~~ *department*, in preparing rules and regulations to implement this chapter, provide that, in processing applications from flood control districts for state participation in ~~such~~ *those* costs, highest priority be given to those districts in which factors, such as the size of the district, degree of nonlocal benefits, and level of non-flood-control maintenance costs ~~which~~ *that* have been transferred to the district due to circumstances beyond their control, combine to work financial hardship on ~~such~~ *those* districts.

SEC. 1327. Section 8452 of the Water Code is repealed.

~~8452. Wherever the words "department or the Reclamation Board" are used together in this chapter, they shall mean the Reclamation Board as to any flood control project levees under its jurisdiction and the Department of Water Resources as to all other flood control project levees.~~

SEC. 1328. Section 8454 of the Water Code is amended to read:

8454. Local agencies maintaining project facilities under the State Water Resources Law of 1945 shall be eligible for reimbursement pursuant to the provisions of this chapter if the cost of maintenance is increased by the planting or retention of vegetative cover on ~~such~~ *those* levees, if the local agency agrees to maintain ~~such~~ vegetative cover on project levees ~~as~~ *that* may be determined by the department ~~or Reclamation Board~~, after consultation with any other affected state agencies, to be necessary for wildlife habitat, recreational, aesthetic, and scenic purposes.

SEC. 1329. Section 8455 of the Water Code is amended to read:

8455. Local agencies entering into agreements with the state shall annually prepare a work program and estimate of cost for conducting any maintenance activities necessary to carry out the

project maintenance and the purposes of this chapter and shall submit the proposed program and cost estimates to the department ~~or the Reclamation Board~~ for review. The department ~~or the Reclamation Board~~ shall review the proposed program and, after receiving the comments of any other affected state agencies, the department ~~or the Reclamation Board~~ shall certify for reimbursement 50 percent of those costs which are found to be attributable to the maintenance of vegetative cover for wildlife, recreational, aesthetic, and scenic purposes, and may allocate funds appropriated for these purposes to local agencies which have entered into agreements with the state pursuant to this chapter.

SEC. 1330. Section 8456 of the Water Code is amended to read:

8456. Administrative costs incurred by the department ~~or the Reclamation Board~~ under this chapter in any fiscal year shall not exceed 10 percent of the annual cost of the program established by this chapter.

SEC. 1331. Section 8502 of the Water Code is amended to read:

8502. The management and control of the district are vested in the ~~reclamation board~~ *department*.

SEC. 1332. The heading of Part 4 (commencing with Section 8520) of Division 5 of the Water Code is amended to read:

PART 4. ~~CENTRAL VALLEY FLOOD PROTECTION BOARD~~ *ADDITIONAL POWERS OF THE DEPARTMENT OF WATER RESOURCES*

SEC. 1333. Section 8521 of the Water Code is amended to read:

8521. "Board" ~~means the Central Valley Flood Protection Board~~ *or "Central Valley Floor Protection Board" shall be deemed a reference to the department, unless the content indicates otherwise*. Any reference to the Reclamation Board *or the Central Valley Flood Protection Board* in this or any other code means ~~the Central Valley Flood Protection Board~~ *the department*.

SEC. 1334. Chapter 2 (commencing with Section 8550) of Part 4 of Division 5 of the Water Code is repealed.

SEC. 1335. Chapter 2 (commencing with Section 8550) is added to Part 4 of Division 5 of the Water Code, to read:

CHAPTER 2. ADMINISTRATIVE PROVISIONS

8550. The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdictions of the Central Valley Flood Protection Board, which is hereby abolished.

8551. All officers and employees of the Central Valley Flood Protection Board who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

8552. The department shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the Central Valley Flood Protection Board.

8553. (a) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(b) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

(c) No contract, lease, license, bond, or any other agreement to which the Central Valley Flood Protection Board is a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the department assuming all of the rights, obligations, liabilities, and duties of the Central Valley Flood Protection Board. That assumption by the department shall

not in any way affect the rights of the parties to the contract, lease, license, or agreement.

(d) The unexpended balance of all funds available for use by the Central Valley Flood Protection Board in carrying out any functions transferred to the department shall be available for use by the department.

8554. The department shall have a seal of a device that the department may adopt.

8555. The seal of the department is also the seal of the drainage district.

8556. A copy of any record of the department, certified to be a true copy, and attested by the seal of the department, is prima facie evidence of the existence and contents of the record.

8557. For making a copy of any of its records, the department may charge and collect the actual reasonable cost of making the copy, including the time of its employees and materials used, and one dollar ($1) for the certificate if a certified copy is requested.

8558. The department may require a deposit in advance sufficient to cover the charges for copying and certifying copies of its records.

8559. All money collected for copying and certifying copies of the department's records shall be paid monthly to the Treasurer and credited to the balance remaining unexpended of any appropriation or assessment available for the general administrative expenses of the department to carry out this division.

8560. The department may adopt, amend, or repeal rules and regulations to carry out this division.

8561. No officer or employee of the department shall be held personally liable on any obligation or liability of any kind or character arising out of the claim that the officer or employee has failed to carry out any obligation imposed upon the department by this division and the Legislature expressly declares that discretion is vested in the department to determine how and when the various provisions of this division and the projects contemplated in this division with which the department is concerned may best be carried into effect.

8562. For the purposes of this part, the department may appoint a general manager, a chief engineer, and an assistant secretary, and may employ such assistant engineers, consulting engineers,

and other assistants, employees, and advisers as it deems necessary.

8563. The compensation of any engineer employed by the department may be fixed at a monthly rate of compensation, or fees for special services rendered, or both.

8564. The department may administer oaths and take and certify affidavits relating to any matter pending before the department, or in which the department or the drainage district is interested.

SEC. 1336. The heading of Part 5 (commencing with Section 9250) of Division 5 of the Water Code is amended to read:

PART 5. ~~RECLAMATION BOARD~~ BOND ACT

SEC. 1337. Section 9251 of the Water Code is amended to read:

9251. "Board" ~~means the reclamation board~~ *or "Reclamation Board" shall be deemed to be a reference to the department, unless the context indicates otherwise.*

SEC. 1338. Section 9260 of the Water Code is amended and renumbered to read:

~~9260.~~

9260.2. Whenever any assessment levied by the ~~board~~ *department* upon lands within the drainage district has been completed and all of the hearings before the ~~board~~ *department* in regard thereto have been held and the ~~board~~ *department* is ready to make its order approving the assessment as finally fixed pursuant to ~~the provisions of~~ Chapter 5~~, Part 4, of this division~~ *(commencing with Section 8750) of Part 4,* the ~~board~~ *department* may at the time of making the order finally approving the assessment, also determine, and make a part of the order, that in its judgment it is for the best interests of the owners of land in the drainage district affected by the assessment to issue bonds for the purpose of obtaining money to pay the cost of the works or other expenses for which the assessment was levied.

SEC. 1339. Section 9260 is added to the Water Code, to read:

9260. The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdictions of the Central Valley Flood Protection Board as provided in Part 4 (commencing with Section 8520).

SEC. 1340. Section 10005.1 of the Water Code is amended to read:

10005.1. The department ~~or, at the department's request, the California Water Commission,~~ shall conduct a series of hearings with interested persons, organizations, local, state, and federal agencies, and representatives of the diverse geographical areas and interests of the state.

SEC. 1341. Section 12232 of the Water Code is amended to read:

12232. The State Water Resources Control Board, the State Department of Water Resources, ~~the California Water Commission,~~ and any other agency of the state having jurisdiction, shall do nothing, in connection with their responsibilities, to cause further significant degradation of the quality of water in that portion of the San Joaquin River between the points specified in Section 12230.

SEC. 1342. Section 12310 of the Water Code is amended to read:

12310. As used in this chapter, the following terms have the following meanings:

(a) "Local public agency" means a reclamation district or levee district or other public agency responsible for the maintenance of a nonproject levee as defined in subdivision ~~(e)~~ *(d)* of Section 12980 or a project levee as defined in subdivision ~~(f)~~ *(e)* of Section 12980.

(b) "Project" means the flood control improvement and any mitigation and habitat improvement constructed, or interests in land acquired, for those purposes pursuant to this part.

(c) "Department" means the Department of Water Resources.

(d) "Delta" means the Sacramento-San Joaquin Delta as described in Section 12220.

(e) "Net long-term habitat improvement" means enhancement of riparian, fisheries, and wildlife habitat.

(f) "CALFED Bay Delta Program" or "CALFED program" means the program established in May 1995 as a joint effort among state and federal agencies with management and regulatory responsibilities in the San Francisco Bay and Sacramento-San Joaquin River Delta to develop long-term solutions to resource management problems involving the bay-delta.

SEC. 1343. Section 12313 of the Water Code is amended to read:

12313. (a) The department shall develop a list of areas where flood control work is needed to protect public facilities or provide public benefits. In developing the list, the department shall consult with all appropriate federal, state, and local agencies. The list shall establish a priority for the areas based upon both of the following:

(1) The importance or degree of public benefit needing protection.

(2) The need for flood protective work.

(b) The list shall be ~~submitted to the California Water Commission for approval, and shall be~~ updated by the department~~, with the approval of the California Water Commission,~~ as the department may deem appropriate.

SEC. 1344. The heading of Part 5 (commencing with Section 12500) of Division 6 of the Water Code is amended to read:

PART 5. THE COLORADO RIVER ~~BOARD OF CALIFORNIA~~

SEC. 1345. Section 12501 of the Water Code is repealed.

~~12501. "Board" means the Colorado River Board of California.~~

SEC. 1346. Section 12502 of the Water Code is repealed.

~~12502. "Commissioner" means the Colorado River Commissioner.~~

SEC. 1347. Chapter 2 (commencing with Section 12510) of Part 5 of Division 6 of the Water Code is repealed.

SEC. 1348. Chapter 2 (commencing with Section 12510) is added to Part 5 of Division 6 of the Water Code, to read:

CHAPTER 2. THE DEPARTMENT

12510. The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdictions of the Colorado River Board of California, which is hereby abolished.

12511. All officers and employees of the Colorado River Board of California who are serving in the state civil service, other than as temporary employees, shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State

Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

12512. The department shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the Colorado River Board of California.

12513. (a) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(b) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this section, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this section.

(c) No contract, lease, license, bond, or any other agreement to which the Colorado River Board of California is a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the department assuming all of the rights, obligations, liabilities, and duties of the Colorado River Board of California. That assumption by the department shall not in any way affect the rights of the parties to the contract, lease, license, or agreement.

(d) The unexpended balance of all funds available for use by the Colorado River Board of California in carrying out any functions transferred to the department shall be available for use by the department.

12514. All of the records or copies of those records relating to this part shall be maintained by the department.

12515. The department shall adopt rules or procedures that are required for the orderly disposition of its business and regulations that are necessary to carry out this part.

12516. The department may make reports and recommendations to the Governor with regard to the actions undertaken pursuant to this part.

12517. The department shall exercise on behalf of the state every right and power granted to the state or to any representative of it by Section 16 of the act of Congress designated the "Boulder Canyon Project Act."

12518. The department shall investigate past, present, and potential uses of the water of the Colorado River System within and without the state.

12519. The department shall investigate, coordinate, collate, and preserve information, facts, and data bearing upon the claims of all states and of all public or private agencies within and outside the state to, and in respect of, the water and the use of water of the Colorado River System.

12520. The department shall confer with representatives of other states in the Colorado River basin, representatives of the United States, and others concerning problems and measures relating to the development of the Colorado River basin, the use of the water of the Colorado River System, and the protection of the interests therein of the state and of the United States, and shall negotiate respecting such problems and measures and discuss the same and formulate and recommend to the Governor and the Legislature measures, agreements, and legislation deemed for the benefit of the state and the United States.

12521. The department shall perform all other actions deemed necessary or expedient to carry out the purposes of this part.

SEC. 1349. Chapter 3 (commencing with Section 12525) of Part 5 of Division 6 of the Water Code is repealed.

SEC. 1350. Chapter 4 (commencing with Section 12540) of Part 5 of Division 6 of the Water Code is repealed.

SEC. 1351. The heading of Chapter 5 (commencing with Section 12550) of Part 5 of Division 6 of the Water Code is amended and renumbered to read:

CHAPTER ~~5.~~ *5.3.* THE COLORADO RIVER FUND

SEC. 1352. Section 12551 of the Water Code is amended to read:

12551. The ~~board~~ *department* may accept any and all contributions to the fund.

SEC. 1353. Section 12552 of the Water Code is amended to read:

12552. All contributions accepted by the ~~board~~ *department* shall be deposited by it in the State Treasury to the credit of the fund.

SEC. 1354. The heading of Chapter 6 (commencing with Section 12553) of Part 5 of Division 6 of the Water Code is amended and renumbered to read:

CHAPTER ~~6.~~ *6.4.* WARRANTS

SEC. 1355. Section 12553 of the Water Code is amended to read:

12553. The ~~State~~ Controller shall draw warrants upon the fund from time to time upon demand of the ~~commissioner~~ *department*, and the ~~State~~ Treasurer shall pay the warrants.

SEC. 1356. The heading of Chapter 7 (commencing with Section 12560) of Part 5 of Division 6 of the Water Code is amended and renumbered to read:

CHAPTER ~~7.~~ *7.5.* COLORADO RIVER MANAGEMENT PROGRAM

SEC. 1357. Section 12571.5 is added to the Water Code, to read:

12571.5. "Board" or "Reclamation Board" shall be deemed to be a reference to the department, unless the context indicates otherwise.

SEC. 1358. Section 12578.5 is added to the Water Code, to read:

12578.5. The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Reclamation Board, as provided in Part 4 (commencing with Section 8520) of Division 5.

SEC. 1359. Section 12602 of the Water Code is amended to read:

12602. The department, or a representative authorized by the department to do so, may call, conduct or attend conferences or hearings, official or unofficial, within or without this state, or

otherwise participate in such conferences or hearings, with interested persons, agencies or officers, of this or any other state, or with the Congress of the United States, congressional committees, or officials of the federal government, concerning water projects, plans, or problems. However, where the appropriations committees of the Congress are hearing requests for appropriations for flood control projects being planned or constructed in California under the jurisdiction of the United States Army Corps of Engineers, or reclamation projects being planned or constructed in California by the Bureau of Reclamation, *the* United States Department of the Interior~~, the California Water Commission~~ *and the department* shall present its views. Prior to making such presentation, the ~~commission~~ *department* shall consult with interested local, state, and federal agencies, and may on request report to the committees the views of any county, city, state agency, or public district regarding such appropriations. The ~~commission~~ *department* may, on request, represent any local agencies before such committees. Nothing in this section or in Section 12604.3 shall be deemed or construed to modify, limit, or take away from any of the powers and duties vested in the department, or any other state agency, pursuant to this article.

SEC. 1360. Section 12604.3 of the Water Code is amended to read:

12604.3. In matters concerning the coordination of planning, construction, and operation of federal water development and flood control projects in the State of California with state and local projects, the ~~California Water Commission shall advise the~~ department~~, and~~ *shall advise* the Governor, and to this end may confer with the appropriate executive agencies of the United States.

SEC. 1361. Section 12634.3 of the Water Code is amended to read:

12634.3. The department shall ~~submit~~ *prepare*, prior to January 1st of each year, a report ~~to the California Water Commission~~ summarizing its activities, with emphasis on existing and prospective planning projects, the need for such projects, and the estimated costs thereof. The ~~commission~~ *department* may conduct public hearings on ~~such~~ *those* reports and may make recommendations thereon to the ~~department and the~~ Legislature.

SEC. 1362. Section 12879.5 of the Water Code is amended to read:

12879.5. (a) The sum of twenty million dollars ($20,000,000) of the money in the fund shall be deposited in the Local Water Projects Assistance Account and shall be available for loans to local agencies to aid in the construction of eligible projects.

(b) No eligible project may receive more than five million dollars ($5,000,000) in loans from the department.

(c) In the administration of this section, the department ~~and the California Water Commission~~ shall give preference to projects involving the development of new basic water supplies which may include the enlargement of existing dams and reservoirs, and for projects that will remedy existing water supply problems. The department ~~and the California Water Commission~~ shall set priority for loans pursuant to this section on the basis of the cost-effectiveness of the proposed project, with the most cost-effective projects receiving highest priority.

(d) If the water supply function of a dam and reservoir facility is operationally limited or eliminated for dam safety purposes, pursuant to Part 1 (commencing with Section 6000) of Division 3, the department ~~and the California Water Commission~~ may give consideration to projects which would rehabilitate the dam and reservoir for water supply purposes. The rehabilitation of facilities may include comparable replacement facilities.

(e) The department shall not make loans pursuant to this section for otherwise eligible projects whose benefits are more than 50 percent derived from hydroelectric generation, as determined by the department.

(f) The department may make loans to local agencies, at the interest rates authorized pursuant to this chapter and pursuant to any terms and conditions as may be determined necessary by the department, for the purposes of financing feasibility studies of projects potentially eligible for funding pursuant to this section. No single potential project shall be eligible to receive more than five hundred thousand dollars ($500,000), and not more than 10 percent of the total amount of bonds authorized to be expended for purposes of this section may be expended for those purposes.

SEC. 1363. Section 12879.9 of the Water Code is amended to read:

12879.9. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Water Conservation

Finance Committee is hereby created. For purposes of this chapter, the Water Conservation Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Governor, the Controller, the Treasurer, the Director of Finance, *and* the Director of Water Resources, ~~and the Chairperson of the California Water Commission,~~ or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Water Resources is designated the "board."

SEC. 1364. Section 12886.4 of the Water Code is amended to read:

12886.4. The department is authorized, following receipt of an application for state participation from a public agency, to participate under this article on behalf of the state in any project that is larger than the one ~~which~~ *that* the public agency proposes to construct and that is primarily for domestic, municipal, agricultural, industrial, recreational or fish and wildlife enhancement purposes and in so participating shall finance those costs of ~~such~~ *the* project that are allocated to the state, on terms agreed upon with the public agency~~, subject to the prior approval of the California Water Commission,~~ and to expend for participation in the planning, designing, and construction of any one project an amount not exceeding one million dollars ($1,000,000) from moneys available for such participation, including but not limited to, the moneys appropriated by the California Water Resources Development Bond Act (Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 ~~of this code~~) for provision for water development facilities for local areas as provided in this ~~Chapter 5~~ *chapter*. Expenditures by the department in excess of one million dollars ($1,000,000) for the planning, designing, and construction of any one project may be made only upon specific authorization of the Legislature.

SEC. 1365. Section 12891.4 of the Water Code is amended to read:

12891.4. All loans or grants made pursuant to this chapter shall be subject to the provisions of this chapter ~~and subject to the approval of the California Water Commission~~.

SEC. 1366. Section 12892 of the Water Code is repealed.

~~12892. No member of the California Water Commission shall participate in the action of the commission in considering for approval, or approving, a loan or grant under this chapter to a public agency of which he is an officer, employee, agent, consultant, accountant, engineer, or legal counsel or in which he owns real property.~~

SEC. 1367. Section 12928.2 of the Water Code is repealed.

~~12928.2. A contract for a loan pursuant to Section 12928 shall require the prior approval of the California Water Commission.~~

SEC. 1368. Section 12980 of the Water Code is amended to read:

12980. As used in this part:

~~(a) "Board" means the Reclamation Board.~~

~~(b)~~

(a) "Delta" means the Sacramento-San Joaquin Delta as described in Section 12220.

~~(c)~~

(b) "Local agency" means any city, county, district, or other political subdivision of the state which is authorized to maintain levees.

~~(d)~~

(c) "Net long-term habitat improvement" means enhancement of riparian, fisheries, and wildlife habitat.

~~(e)~~

(d) "Nonproject levee" means a local flood control levee in the delta that is not a project facility under the State Water Resources Law of 1945, as shown on page 38 of the Department of Water Resources "Sacramento-San Joaquin Delta Atlas," dated 1993.

~~(f)~~

(e) "Project levee" means a federal flood control levee, as shown on page 40 of the Department of Water Resources "Sacramento-San Joaquin Delta Atlas," dated 1993, that is a project facility under the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6), if not less than a majority of the acreage within the jurisdiction of the local agency that maintains the levee is within the primary zone of the delta, as defined in Section 29728 of the Public Resources Code.

SEC. 1369. Section 12984 of the Water Code is amended to read:

12984. The department shall develop ~~and submit to the board, for adoption by the board,~~ *and adopt* criteria for the maintenance and improvement of nonproject levees. The criteria shall vary as required to meet specific conditions and shall be multipurpose in nature, and include environmental considerations, when feasible. The criteria shall embody and implement both of the following:

(a) The short-term mitigation plan set forth in the "Flood Hazard Mitigation Plan for the Sacramento-San Joaquin Delta," prepared by the department for the Office of Emergency Services, dated September 15, 1983, or as amended.

(b) The "Vegetation Management Guidelines for Local Nonproject Delta Levees" dated April 1994, or any successor guidelines.

SEC. 1370. Section 12985 of the Water Code is amended to read:

12985. Prior to adoption of ~~any such~~ *the* criteria, the ~~board~~ *department* shall hold public hearings and may revise the criteria ~~as~~ *that* it determines *are* necessary.

SEC. 1371. Section 12986 of the Water Code, as amended by Section 4 of Chapter 548 of the Statutes of 2006, is amended to read:

12986. (a) It is the intention of the Legislature to reimburse an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of project or nonproject levee is one thousand dollars ($1,000) or less.

(2) Not more than 75 percent of any costs incurred in excess of one thousand dollars ($1,000) per mile of project or nonproject levee shall be reimbursed.

(3) (A) As part of the project plans approved by the ~~board~~ *department*, the department shall require the local agency or an independent financial consultant to provide information regarding the agency's ability to pay for the cost of levee maintenance or improvement. Based on that information, the department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.

(B) The information or comprehensive study of the agency's ability to pay shall be the basis for determining the maximum

allowable reimbursement eligible under this part. Nothing in this paragraph shall be interpreted to increase the maximum reimbursement allowed under paragraph (2).

(4) Reimbursements made to the local agency in excess of the maximum allowable reimbursement shall be returned to the department.

(5) The department may recover, retroactively, excess reimbursements paid to the local agency from any time after January 1, 1997, based on an updated study of the agency's ability to pay.

(6) All final costs allocated or reimbursed under a plan shall be approved by the ~~reclamation board~~ *department* for project and nonproject levee work.

(7) Costs incurred pursuant to this part that are eligible for reimbursement include construction costs and associated engineering services, financial or economic analyses, environmental costs, mitigation costs, and habitat improvement costs.

(b) Upon completion of its evaluation pursuant to Sections 139.2 and 139.4, by January 1, 2008, the department shall recommend to the Legislature and the Governor priorities for funding under this section.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1372. Section 12987 of the Water Code is amended to read:

12987. (a) Local agencies maintaining project or nonproject levees shall be eligible for reimbursement pursuant to this part upon submission to and approval by the ~~board~~ *department* of plans for the maintenance and improvement of the project or nonproject levees, including plans for the annual routine maintenance of the levees, in accordance with the criteria adopted by the ~~board~~ *department*.

(b) The nonproject plans shall also be compatible with the plan for improvement of the delta levees as set forth in Bulletin No. 192-82 of the department, dated December 1982, and as approved in Section 12225. Both project and nonproject plans shall include provisions to acquire easements along levees that allow for the

control and reversal of subsidence in areas where the department determines that such an easement is desirable to maintain structural stability of the levee. The easement shall (1) restrict the use of the land to open-space uses, nontillable crops, the propagation of wildlife habitat, and other compatible uses, (2) provide full access to the local agency for levee maintenance and improvement purposes, and (3) allow the owner to retain reasonable rights of ingress and egress as well as reasonable rights of access to the waterways for water supply and drainage. The local agency cost of acquisition of the easements shall be reimbursable by the department from moneys appropriated pursuant to paragraph (1) of subdivision (b) of Section 12300, or any other sources appropriated by the Legislature for purposes of this part.

(c) The plans shall also include provision for protection of the fish and wildlife habitat determined to be necessary by the Department of Fish and Game and not injurious to the integrity of the levee. The Department of Fish and Game shall consider the value of the riparian and fisheries habitat and the need to provide safe levees in preparing its requirements. The Department of Fish and Game shall not approve any plan which calls for the use of channel islands or berms with significant riparian communities as borrow sites for levee repair material, unless fully mitigated, or any plans which will result in a net long-term loss of riparian, fisheries, or wildlife habitat.

(d) After the memorandum of understanding required pursuant to Section 12307 is amended as required by Section 78543, the Department of Fish and Game shall also make a written determination as part of its review and approval of a plan or project pursuant to Section 12314 and this section that the proposed expenditures are consistent with a net long-term habitat improvement program and have a net benefit for aquatic species in the delta. The memorandum of understanding in effect prior to the amendments required by Section 78543 shall remain in effect with regard to levee projects and plans until the memorandum of understanding is amended.

(e) The plans shall also take into account the most recently updated Delta Master Recreation Plan prepared by the Resources Agency.

(f) Upon approval of the plans by the ~~board~~ *department*, the local agencies shall enter into an agreement with the ~~board~~

department to perform the maintenance and improvement work, including the annual routine maintenance work, specified in the plans. If applications for state funding in any year exceed the state funds available, the ~~board~~ *department* shall apportion the funds among those levees or levee segments that are identified by the department as most critical and beneficial, considering the needs of flood control, water quality, recreation, navigation, habitat improvements, and fish and wildlife.

SEC. 1373. Section 12987.5 of the Water Code is amended to read:

12987.5. (a) In an agreement entered into under Section 12987, the ~~board~~ *department* may provide for an advance to the applicant in an amount not to exceed 75 percent of the estimated state share. The agreement shall provide that no advance shall be made until the applicant has incurred costs averaging one thousand dollars ($1,000) per mile of levee.

(b) Advances made under subdivision (a) shall be subtracted from amounts to be reimbursed after the work has been performed. If the department finds that work has not been satisfactorily performed or where advances made actually exceed reimbursable costs, the local agency shall promptly remit to the state all amounts advanced in excess of reimbursable costs. If advances are sought, the ~~board~~ *department* may require a bond to be posted to ensure the faithful performance of the work set forth in the agreement.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1374. Section 12988 of the Water Code is amended to read:

12988. Upon the completion in any year of the maintenance or improvement work, including annual routine maintenance work, as specified in the plans approved by the ~~board~~ *department*, the local agency shall notify the department, and the department shall inspect the completed work. The department, upon completion of ~~such~~ *the* inspection, shall ~~submit to the board~~ *prepare* a report as to its findings. Upon a finding that the work has been satisfactorily completed in accordance with the approved plans, the ~~board~~ *department* shall certify for reimbursement 75 percent of any costs

incurred per mile of levee if the entire cost incurred per mile of levee is greater than one thousand dollars ($1,000).

SEC. 1375. Section 12990 of the Water Code is amended to read:

12990. Whenever the department finds that the annual routine maintenance work specified in the plans approved by the ~~board~~ *department* is not being performed in accordance with the agreement entered into between the local agency and the ~~board~~ *department*, the department may establish a maintenance area in accordance with ~~the provisions of~~ Chapter 4.5 (commencing with Section 12878) of Part 6 ~~of this division~~, as nearly as the same may be applicable, except that the work to be performed shall be the routine annual maintenance work for the nonproject levee as specified in the plans approved by the ~~board~~ *department*. Upon the formation of a maintenance area, the department shall thereafter annually maintain the nonproject levee in accordance with such plans and subject to ~~the provisions of~~ Chapter 4.5 (commencing with Section 12878) of Part 6 ~~of this division~~, as nearly as the same may be applicable.

SEC. 1376. Section 12991 of the Water Code is amended to read:

12991. The ~~board is authorized to make, from time to time, such~~ *department may adopt* rules and regulations ~~as~~ *that* may be necessary to carry out, and ~~as~~ *that* are consistent with, this part.

SEC. 1377. Section 12992 of the Water Code is amended to read:

12992. Before any plan is approved, agreement entered into, or moneys advanced or reimbursed under this part, the local agency shall first enter into an agreement with the ~~board~~ *department* indemnifying and holding and saving the State of California, ~~the board,~~ the department, any other agency or department of the state, and their employees free from any and all liability for damages, except that caused by gross negligence, that may arise out of the approvals, agreements, inspections, or work performed under this part.

Any funds appropriated for any of the purposes of this part may be used to satisfy any judgment against the state covered by this section, pending indemnification by the local agency.

SEC. 1378. Section 12994 of the Water Code is amended to read:

12994. (a) The Legislature finds and declares all of the following:

(1) The CALFED Bay-Delta Program has identified as a core action the need for emergency levee management planning for delta levees to improve system reliability.

(2) Even with active levee maintenance, the threat of delta levee failures from earthquake, flood, or poor levee foundation, will continue to exist.

(3) Because of this threat of failure, and the potential need to mobilize people and equipment in an emergency to protect delta levees and public benefits, the department needs authority that will enable it to act quickly.

(b) The department may do all of the following:

(1) In an emergency, as defined by Section 21060.3 of the Public Resources Code, that requires immediate levee work to protect public benefits in the delta, the department may use funds pursuant to this part without prior approval of a plan by the ~~board or the~~ Department of Fish and Game, in which case the requirements of Sections 12314 and 12987, and the memorandum of understanding pursuant to Section 12307, shall be carried out as soon as possible.

(A) The amount of funds that may be expended each year on emergency levee work under this section shall not be greater than two hundred thousand dollars ($200,000) and the amount that may be expended per emergency levee site shall not be greater than fifty thousand dollars ($50,000). The local agency shall fund 25 percent of the total costs of the emergency repair at a site or shall fund an appropriate share of the costs as approved by the ~~board~~ *department* and based upon information of the local agency's ability to pay for the repairs.

(B) Department contracts executed for emergency levee work under this section shall be exempted from Department of General Services approval required under the Public Contract Code.

(C) As soon as feasible after the emergency repair, the department shall ~~submit~~ *prepare* a report ~~to the board~~ describing the levee work, costs incurred, and plans for future work at the site, including any necessary mitigation.

(D) This section is intended to supplement emergency services provided by the state or the United States. Nothing in this section overrides or supersedes the authority of the Director of the Office of Emergency Services under the California Emergency Services

Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 2 of the Government Code).

(2) Prepare and ~~submit to the board for adoption~~ *adopt* a delta emergency response plan for levee failures. The plan is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The plan may include recommendations of the multiagency response team established pursuant to paragraph (3) and may include, but not be limited to, the following:

(A) Standardized contracts for emergency levee work to be executed by the department, local agencies, or other appropriate entities.

(B) Criteria for eligible emergency levee work.

(C) Definition of an emergency levee site.

(D) Documentation requirements.

(E) Proposals for complying with the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) in an emergency.

(F) Stages of emergency response that may occur in various situations.

(3) Establish a multiagency emergency response team, consisting of representatives from the department, ~~the board,~~ the Department of Fish and Game, the California Conservation Corps, the Office of Emergency Services, the Federal Emergency Management Agency, the United States Army Corps of Engineers, and the United States Fish and Wildlife Service to advise on methods to ensure that levee emergencies will be resolved as quickly and safely as possible.

SEC. 1379. Section 12995 of the Water Code is amended to read:

12995. (a) The Legislature hereby finds and declares both of the following:

(1) There is an urgent need for rehabilitation and improvement of delta levees, and that the United States Army Corps of Engineers has a crucial and continuing role in that work.

(2) The department ~~and the board have~~ *has* been cooperating with the United States Army Corps of Engineers in a feasibility study for rehabilitation and improvement of the levees in the delta. That feasibility study identified a federal interest in levee rehabilitation and improvements due to benefits to navigation, commerce, the environment, and flood damage reduction.

(b) The department ~~and the board~~ may cooperate with the United States Army Corps of Engineers to develop and implement delta levee rehabilitation, improvement, and realignment, and to enhance the environment.

SEC. 1380. Section 13578 of the Water Code is amended to read:

13578. (a) In order to achieve the statewide goal for recycled water use established in Section 13577 and to implement the Governor's Advisory Drought Planning Panel Critical Water Shortage Contingency Plan recommendations, Section F2, as submitted December 29, 2000, the department shall identify and report to the Legislature on opportunities for increasing the use of recycled water, as defined in paragraph (3) of subdivision (b) of Section 13575, and identify constraints and impediments, including the level of state financial assistance available for project construction, to increasing the use of recycled water.

(b) The department shall convene a task force, to be known as the 2002 Recycled Water Task Force, to advise the department in implementation of subdivision (a), including making recommendations to the Legislature regarding the following:

(1) How to further the use of recycled water in industrial and commercial applications, including, but not limited to, those applications set forth in Section 13552.8. The task force shall evaluate the current regulatory framework of state and local rules, regulations, ordinances, and permits to identify the obstacles and disincentives to industrial and commercial reuse. Issues to be investigated include, but are not limited to, applicability of visual inspections instead of pressure tests for cross-connections between potable and nonpotable water systems, dual piping trenching restrictions, fire suppression system design, and backflow protections.

(2) Changes in the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, that are appropriate to facilitate the use of recycled water in

industrial and commercial settings. The department shall make recommendations to the ~~California Building Standards Commission~~ *Department of General Services* with regard to suggested revisions to the California Plumbing Code necessary to incorporate the changes identified by the task force.

(3) Changes in state statutes or the current regulatory framework of state and local rules, regulations, ordinances, and permits appropriate to increase the use of recycled water for commercial laundries and toilet and urinal flushing in structures including, but not limited to, those defined in subdivision (c) of Section 13553. The department shall identify financial incentives to help offset the cost of retrofitting privately and publicly owned structures.

(4) The need to reconvene the California Potable Reuse Committee established by the department in 1993 or convene a successor committee to update the committee's finding that planned indirect potable reuse of recycled water by augmentation of surface water supplies would not adversely affect drinking water quality if certain conditions were met.

(5) The need to augment state water supplies using water use efficiency strategies identified in the CALFED Bay-Delta Program. In its report pursuant to subdivision (a), the department shall identify ways to coordinate with CALFED to assist local communities in educating the public with regard to the statewide water supply benefits of local recycling projects and the level of public health protection ensured by compliance with the uniform statewide water recycling criteria developed by the State Department of ~~Health Services~~ *Public Health* in accordance with Section 13521.

(6) Impediments or constraints, other than water rights, related to increasing the use of recycled water in applications for agricultural, environmental, or irrigation uses, as determined by the department.

(c) (1) The task force shall be convened by the department and be comprised of one representative from each of the following state agencies:

(A) The department.

(B) The State Department of ~~Health Services~~ *Public Health*.

(C) The state board.

(D) The California Environmental Protection Agency.

(E) The CALFED Bay-Delta Program.

(F) The Department of Food and Agriculture.

(G) The ~~Building Standards Commission~~ *Department of General Services*.

(H) The University of California.

(I) The Resources Agency.

(2) The task force shall also include one representative from a recognized environmental advocacy group and one representative from a consumer advocacy group, as determined by the department, and one representative of local agency health officers, one representative of urban water wholesalers, one representative from a groundwater management entity, one representative of water districts, one representative from a nonprofit association of public and private members created to further the use of recycled water, one representative of commercial real estate, one representative of land development, one representative of industrial interests, and at least two representatives from each of the following as defined in Section 13575:

(A) Recycled water producer.

(B) Recycled water wholesaler.

(C) Retail water supplier.

(d) The department and the task force shall report to the Legislature not later than July 1, 2003.

(e) The department shall carry out the duties of this section only to the extent that funds pursuant to Section 79145, enacted as part of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Division 26 (commencing with Section 79000)), are made available for the purposes of this section.

SEC. 1381. Section 50653 of the Water Code is amended to read:

50653. The board shall receive from the ~~reclamation board~~ *department* any money allowed on account of uncollected assessments previously levied on lands purchased by the board for rights of way, and shall distribute the money among the landowners of the district in proportion to their payments on the last assessment roll or place the money in the county treasury to the credit of the district.

SEC. 1382. Section 51021 of the Water Code is amended to read:

51021. Within five days after the copies of the plan and estimate are filed with the county clerk ~~he~~, *the county clerk* shall

certify two of the copies and transmit them to the ~~Secretary of the Reclamation Board~~ *department*.

SEC. 1383. Section 51022 of the Water Code is amended to read:

51022. Upon receipt of the certified copies of the plan, the ~~Secretary of the Reclamation Board~~ *department* shall immediately set a date when the ~~Reclamation Board~~ *department* will hold a hearing for considering any objections thereto, which hearing shall be held not less than 20, nor more than 60, days after the ~~Secretary of the Reclamation Board received~~ *department receives* the certified copies of the plan.

SEC. 1384. Section 51023 of the Water Code is amended to read:

51023. The ~~Secretary of the Reclamation Board~~ *department* shall publish a notice of the hearing once a week for two weeks in some newspaper of general circulation published within the district, or, if no newspaper is published within the district, then in the county seat of the principal county.

SEC. 1385. Section 51024 of the Water Code is amended to read:

51024. The notice shall be in substantially the following form:

"Notice to the landowners of reclamation district No. ____. Notice is hereby given to the landowners of reclamation district No. ____ that there has been filed with the county clerk of the County of ____ and with the ~~Secretary of the Reclamation Board~~ *Department of Water Resources*, an original (supplemental or new, as the case may be) plan for the reclamation of lands of the district; that the ~~Reclamation Board~~ *Department of Water Resources* will hold a meeting at its office in the City of Sacramento, County of Sacramento, State of California, on the ____ day of ____, 19__, at ____ o'clock, at which time any interested party may appear and object to the ~~said~~ plan."

SEC. 1386. Section 51025 of the Water Code is amended to read:

51025. At the hearing, the ~~Reclamation Board~~ *department* shall hear any evidence offered with respect to the plan, and thereafter shall approve, modify, amend, or reject the plan.

SEC. 1387. Section 51026 of the Water Code is amended to read:

51026. The ~~Reclamation Board~~ *department* shall not modify, amend, or reject any plan on the ground that the plan provides for a levee which in its judgment is of excessive strength either in height, slopes or crown width, but no claim for compensation shall thereafter be made against the ~~Reclamation Board~~ *department* or the Sacramento and San Joaquin Drainage District for any part of the levees which the ~~Reclamation Board~~ *department* considers in excess of what is required to comply with its plans for flood control.

SEC. 1388. Section 51027 of the Water Code is amended to read:

51027. The ~~Reclamation Board~~ *department* may continue the hearing from time to time and may cause ~~such~~ *any* investigation and report of the plan to be made by the engineers connected with the ~~Reclamation Board~~ *department* or by ~~such~~ other competent authority ~~as~~ *that* the ~~board~~ *department* deems necessary.

SEC. 1389. Section 51028 of the Water Code is amended to read:

51028. When the ~~Reclamation Board~~ *department* has approved, modified, or rejected any reclamation plan after a hearing as provided in this article, ~~such~~ *the* action shall be final, and the sufficiency of the plan shall not be subject to attack before the ~~reclamation board~~ *department* or in any court, but nothing in this section shall prevent the ~~board~~ *department* from filing with the county clerk any amendatory, additional or supplemental plan of reclamation at any time.

SEC. 1390. Section 51029 of the Water Code is amended to read:

51029. When an amendatory, additional, or supplemental plan is filed with the county clerk, two certified copies thereof shall be transmitted to the ~~Secretary of the Reclamation Board~~ *department* and thereafter the same proceedings shall be had, and with like effect, with respect to ~~such~~ *the* plan ~~as~~ *that* are provided for the original plan.

SEC. 1391. Section 51234 of the Water Code is amended to read:

51234. When any part of the district is located within the Sacramento and San Joaquin Drainage District, and the ~~reclamation board~~ *department* has approved the reclamation plan, the ~~board~~ *department* shall so report to the board of supervisors, stating the

estimated cost of the reclamation works, and petitioning the board of supervisors to appoint three assessment commissioners.

SEC. 1392. Section 73502 of the Water Code is amended to read:

73502. (a) The city, on or before February 1, 2003, shall adopt the program of capital improvement projects designed to restore and improve the bay area regional water system that are described in the capital improvement program report prepared by the San Francisco Public Utilities Commission dated February 25, 2002. A copy of the program shall be submitted, on or before March 1, 2003, to the State Department of ~~Health Services~~ *Public Health*. The program shall include a schedule for the completion of design and award of contract, and commencement and completion of construction of each described project. The schedule shall require that projects representing 50 percent of the total program cost be completed on or before 2010 and that projects representing 100 percent of the total program cost be completed on or before 2015. The program shall also contain a financing plan. The city shall review and update the program, as necessary, based on changes in the schedule set forth in the plan adopted pursuant to subdivision (d).

(b) The plan shall require completion of the following projects:

Project	Location	Project Identification Number
1. Irvington Tunnel Alternative	Alameda/Santa Clara Counties	9970
2. Crystal Springs Pump Station & Pipeline	San Mateo County	201671
3. BDPL 1 & 2-Repair of Caissons/Pipe Bridge	Alameda/San Mateo Counties	99
4. BDPL Pipeline Upgrades at Hayward Fault	Alameda County	128
5. Calaveras Fault Crossing Upgrade	Alameda County	9897
6. Crystal Springs Bypass Pipeline	San Mateo County	9891

7. BDPL Cross Connections 3 & 4	Alameda/Santa Clara Counties	202339
8. Conveyance Capacity West of Irvington Tunnel	Alameda/Santa Clara/San Mateo Counties	201441
9. Calaveras Dam Seismic Improvements	Alameda County	202135

(c) The city shall submit a report to the Joint Legislative Audit Committee, the ~~Seismic Safety Commission~~ *Department of General Services*, and the State Department of *Public* Health ~~Services~~, on or before September 1 of each year, describing the progress made on the implementation of the capital improvement program for the bay area regional water system during the previous fiscal year.

(d) (1) The city may determine that completion dates for projects contained in the capital improvement program adopted pursuant to subdivision (a), including those projects described in subdivision (b), should be delayed or that different projects should be constructed.

(2) The city shall provide written notice, not less than 30 days prior to the date of a meeting of the city agency responsible for management of the bay area regional water system, that a change in the program is to be considered. The notice shall include information about the reason for the proposed change and the availability of materials related to the proposed change. All bay area wholesale customers shall be permitted to testify or otherwise submit comments at the meeting.

(3) If the city adopts a change in the program that deletes one or more projects from the program, or postpones the scheduled completion dates, the city shall promptly furnish a copy of that change and the reasons for that change to the State Department of ~~Health Services~~ *Public Health* and the ~~Seismic Safety Commission~~ *Department of General Services*. The State Department of ~~Health Services~~ *Public Health* and the ~~Seismic Safety Commission~~ *Department of General Services* shall each submit written comments with regard to the significance of that change with respect to public health and safety to the city and the Joint Legislative Audit Committee not later than 90 days after the date on which those entities received notice of that change.

SEC. 1393. Section 73505 of the Water Code is amended to read:

73505. The State Department of ~~Health Services~~ *Public Health* shall conduct an audit, or arrange for an audit to be performed by contract, of the city's program of maintenance of the bay area regional water system prior to July 1, 2004. The audit shall include both of the following:

(a) A review of the adequacy of the city's procedures and resources for all of the following:

(1) Identifying needed maintenance.

(2) Planning, budgeting, scheduling, and completing maintenance.

(3) Recordkeeping of maintenance activities.

(b) A field investigation of the major facilities of the bay area regional water system to determine the general condition of those facilities and the adequacy of existing maintenance efforts.

(c) The State Department of ~~Health Services~~ *Public Health* shall submit a report to the city, the Joint Legislative Audit Committee, and the ~~Seismic Safety Commission~~ *Department of General Services* on its findings and recommendations based on the audit on or before January 1, 2005.

SEC. 1394. Section 73512 of the Water Code is amended to read:

73512. A regional wholesale water supplier shall reimburse the state for all costs incurred by the State Department of ~~Health Services~~ *Public Health* or the ~~Seismic Safety Commission~~ *Department of General Services* in carrying out the duties imposed by this division. The bay area wholesale customers shall reimburse the city for their share of those costs as provided in the master water sales contract. The wholesale customers of regional wholesale water suppliers other than the city are responsible for reimbursing the regional wholesale water supplier for their proportionate share of those costs, through the imposition of water charges.

SEC. 1395. Section 79068.6 of the Water Code is amended to read:

79068.6. Seventy million dollars ($70,000,000) in the subaccount, upon appropriation by the Legislature to the department ~~or Reclamation Board~~, shall be used by the department ~~or Reclamation Board~~ to fund one or more of the following flood

protection projects to be implemented by a local public entity that has legal authority and jurisdiction to implement a flood control program along the Yuba and Feather Rivers and their tributaries:

(a) The construction or improvements of weirs, bypasses, and channels.

(b) The construction of levees or improving publicly maintained levees, including, but not limited to, setback levees, training walls, floodwalls, and streambank protection projects, which provide flood protection or flood damage reduction.

(c) The modification or reoperation of existing dams and waterworks, including spillways or other capital outlay facilities, for the purpose of increased efficiency in managing flood waters.

(d) The installation of tailwater suppression systems, detention basins, relief wells, test wells, flood warning systems, and telemetry devices.

(e) The relocation or floodproofing of structures within floodplains, which meet or exceed a community's floodplain regulations, pursuant to the National Flood Insurance Program.

(f) Implementation of watershed projects, which provide flood protection or flood damage reduction.

(g) The construction of, or improvement to, a state or interstate highway, county road, or a levee road, that is designated a flood emergency evacuation route, or that provides access to a levee for emergency vehicles, flood fights, or levee repair and maintenance, or a project that protects such a road or highway.

(h) The purchase of lands, easements, and rights-of-way.

(i) Capital costs of environmental mitigation.

SEC. 1396. Section 79068.8 of the Water Code is amended to read:

79068.8. No expenditures of state funds may be made under this article until the department ~~or the Reclamation Board~~ determines that all of the following requirements have been met:

(a) There is a final environmental document prepared pursuant to the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code).

(b) The project is in compliance with the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as demonstrated by documentation such as comments received from the Department

of Fish and Game, a permit obtained from the Department of Fish and Game or other appropriate evidence.

(c) The local project proponent agrees to pay at least that portion of the nonfederal capital costs of the project required by Section 12585.5.

(d) The local project proponent agrees to operate and maintain the completed project.

(e) The local project proponent enters into an agreement indemnifying and holding the state, its agencies, officers and employees free and harmless from any and all liability arising out of the design, construction, operation and maintenance of the project.

(f) The project is recommended for implementation by the department ~~or the Reclamation Board~~.

SEC. 1397. Section 79068.10 of the Water Code is amended to read:

79068.10. All of the following factors shall be considered by the department ~~and the Reclamation Board~~ for prioritizing projects:

(a) Potential loss of life from flooding.

(b) Increased flood protection or flood damage reduction for areas that have the greatest flood risk or have experienced repetitive flood loss.

(c) The local community is a small community with financial hardship.

(d) Projects that provide multiple benefits.

(e) Projects that are implemented in accordance with the Sacramento/San Joaquin River Basins Comprehensive Study.

(f) Projects that are implemented pursuant to the completion of feasibility studies conducted by the United States Army Corps of Engineers or local agencies.

(g) Projects along the Yuba and Feather Rivers and their tributaries.

(h) Projects that address regional flood problems.

(i) Projects along the Colusa Drain and its tributaries.

(j) Minimizing impacts to the environment.

SEC. 1398. Section 79068.20 of the Water Code is amended to read:

79068.20. The department ~~and the Reclamation Board~~ may adopt regulations to carry out this article.

SEC. 1399. Section 4341.5 of the Welfare and Institutions Code is amended to read:

4341.5. In order to ensure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Mental Health shall, to the extent resources are available, plan with the University of California, private universities, and the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*, for the development of programs for the training of psychiatrists and psychologists with forensic skills, and recommend appropriate incentive measures, such as state scholarships.

SEC. 1400. Section 4421 of the Welfare and Institutions Code is amended to read:

4421. In order to assure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Developmental Services shall plan with the University of California, private universities, and the ~~California Postsecondary Education Commission~~ *Office of Higher Education and Financial Aid*, for the development of programs for the training of psychiatrists and psychologists with forensic skills.

SEC. 1401. Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) It is the policy of the state that all children in foster care shall have the following rights:

(1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.

(2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.

(4) To receive medical, dental, vision, and mental health services.

(5) To be free of the administration of medication or chemical substances, unless authorized by a physician.

(6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.

(7) To visit and contact brothers and sisters, unless prohibited by court order.

(8) To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

(9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.

(10) To attend religious services and activities of his or her choice.

(11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.

(12) To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.

(13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.

(14) To work and develop job skills at an age-appropriate level, consistent with state law.

(15) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.

(16) To attend Independent Living Program classes and activities if he or she meets age requirements.

(17) To attend court hearings and speak to the judge.

(18) To have storage space for private use.

(19) To be involved in the development of his or her own case plan and plan for permanent placement.

(20) To review his or her own case plan and plan for permanent placement if he or she is 12 years of age or older and in a permanent placement, and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.

(21) To be free from unreasonable searches of personal belongings.

(22) To confidentiality of all juvenile court records consistent with existing law.

(23) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived

race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(24) At 16 years of age or older, to have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education.

(b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

(c) The State Department of Social Services and each county welfare department are encouraged to work with the ~~Student Aid Commission~~ *Office of Higher Education and Financial Aid*, the University of California, the California State University, and the California Community Colleges to receive information pursuant to paragraph (23) of subdivision (a).

~~SECTION 1. It is the intent of the Legislature to effect the changes proposed by the California Performance Review to eliminate and consolidate various state boards and commissions.~~

O