

**Introduced by Committee on Judiciary (Senators Corbett (Chair),  
Ackerman, Harman, Kuehl, and Steinberg)**

February 21, 2008

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An act to amend Sections 108, 480, 490, 650, 1265.1, 1625.4, 3152, 3702, 4999.2, 4999.7, 5216.6, 5616, 5640, 6073, 6212, 6213, 7027.5, 7159, 8698.5, 14207, 14245, 16721.5, 17204, 17913, 17915, 17929, and 19596.2 of the Business and Professions Code, to amend Sections 56.10, 798.73, 1185, 1789.13, 1936, 1951.7, and 2938 of the Civil Code, to amend Sections 340.7 and 486.050 of the Code of Civil Procedure, to amend Section 9526.5 of the Commercial Code, to amend Sections 8484, 8774, 17075.10, 33051, 33382, 35021.3, 46300, 47605, 48980, 49423.5, 49431.7, 51228, 52244, 52499.66, 52861, 52922, 56030, 56300, 56302, 56328, 56331, 56341.1, 56342.1, 56363.5, 56366.1, 56426.6, 56431, 56456, 56476, 56504, 56851, 66018.55, 69551, and 71095 of, and to amend the headings of Chapter 1 (commencing with Section 8006) of Part 6 of Division 1 of Title 1 of, Article 1 (commencing with Section 8006) of Chapter 1 of Part 6 of Division 1 of Title 1 of, and Part 40.5 (commencing with Section 67500) of Division 5 of Title 3 of, the Education Code, to amend Section 13001 of the Elections Code, to amend Sections 1520 and 50700 of the Financial Code, to amend Section 8235 of the Fish and Game Code, to amend Sections 3352, 3357, and 20755 of the Food and Agricultural Code, to amend Sections 3502.5, 3517.8, 3543, 7267.2, 7576, 7585, 8588.1, 8592.1, 8879.50, 8879.60, 11126, 11549.2, 11549.5, 11549.6, 11550, 13959, 14838, 15820.104, 15820.105, 19609, 27293, 27361, 31521.3, 31739.33, 53343.1, 53601, 56100.1, 56700.1, 57009, 65007, 65865.5, 65917.5, 65962, 66474.5, 66474.62, 66540.1, 66540.9, 66540.10, 66540.12, 66540.32, 66540.54, 69615, 70375, 70391, 76000, 76000.5, 76104.1, 76104.6, 77200, 77201.1, 95001, 95003, and 95020 of, and to amend and renumber Section 66540.34 of, the Government

Code, to amend Sections 1180.1, 1250.8, 1348.8, 1357.03, 1367.07, 1417.2, 1538.5, 1568.09, 1569.145, 1728.8, 11752.1, 25210.9, 25270.2, 25299.57, 25299.58, 39625.02, 43869, 44125, 44272, 101317, 111071, 116033, 121530, 122354, 124900, 124991, 127400, 127405, 128735, and 131540 of the Health and Safety Code, to amend Sections 739.3, 1063.1, 1626, 1764.1, 1765, 1872.8, 1872.81, 1872.86, and 15031 of the Insurance Code, to amend Sections 77.7, 4604.5, and 4658.5 of the Labor Code, to amend Sections 293, 398, 903.2, 1170, 1369.1, and 11062 of the Penal Code, to amend Sections 4584, 5818.2, 25402.5.4, 25402.10, 30253, 30327.5, 30327.6, 31408, 35615, and 40117 of the Public Resources Code, to amend Sections 353.1, 399.12, 884.5, and 2829 of the Public Utilities Code, to amend Sections 107.7, 8352.6, 8352.8, 17053.5, 30182, 32258, 41007, 41011, 41021, 41030, and 41099 of the Revenue and Taxation Code, to amend Sections 118, 464, 25440, and 36622 of the Streets and Highways Code, to amend Section 2739 of the Unemployment Insurance Code, to amend Sections 1803, 2430.1, 4766, 5004.1, 9853.6, 11410, 13353.2, 21251, 22511.85, 24617, 27315, 40002, and 40240 of the Vehicle Code, to amend Sections 8201, 9602, 9610, 9614, 9625, 13478, and 13480 of, and to amend and repeal Section 8610.5 of, the Water Code, to amend Sections 707, 5348, 5352.1, 5777.7, 5806, 10830, 10960, 11322.5, 14043.1, 14043.26, 14045, 14154.3, 14407.1, 15657.3, 15660, 16522.1, and 19630.5 of the Welfare and Institutions Code, to amend Section 34 of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), to amend Section 1107 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991), to amend Section 1 of Chapter 58 of the Statutes of 1997, and to amend Sections 2 and 4 of Chapter 4, Section 2 of Chapter 26, and Section 2 of Chapter 451, of the Statutes of 2007, relating to maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1498, as introduced, Committee on Judiciary. Maintenance of the codes.

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

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

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

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

SECTION 1. Section 108 of the Business and Professions Code is amended to read:

108. Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following ~~such~~ *those* hearings, ~~in so far insofar~~ as these powers are given by statute to each respective board.

SEC. 2. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) 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~~ *that* a board 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.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself *or herself* or another, or substantially injure another; ~~or~~.

(3) (A) Done any act ~~which~~ *that* if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he *or she* has been

1 convicted of a felony if he *or she* has obtained a certificate of  
2 rehabilitation under ~~Section 4852.01 and following Chapter 3.5~~  
3 ~~(commencing with Section 4852.01) of Title 6 of Part 3~~ of the Penal  
4 Code or that he *or she* has been convicted of a misdemeanor if he  
5 *or she* has met all applicable requirements of the criteria of  
6 rehabilitation developed by the board to evaluate the rehabilitation  
7 of a person when considering the denial of a license under  
8 subdivision (a) of Section 482.

9 (c) A board may deny a license regulated by this code on the  
10 ground that the applicant knowingly made a false statement of fact  
11 required to be revealed in the application for ~~such~~ *the* license.

12 SEC. 3. Section 490 of the Business and Professions Code is  
13 amended to read:

14 490. A board may suspend or revoke a license on the ground  
15 that the licensee has been convicted of a crime, if the crime is  
16 substantially related to the qualifications, functions, or duties of  
17 the business or profession for which the license was issued. A  
18 conviction within the meaning of this section means a plea or  
19 verdict of guilty or a conviction following a plea of nolo  
20 contendere. ~~Any~~ *An* action ~~which~~ *that* a board is permitted to take  
21 following the establishment of a conviction may be taken when  
22 the time for appeal has elapsed, or the judgment of conviction has  
23 been affirmed on appeal, or when an order granting probation is  
24 made suspending the imposition of sentence, irrespective of a  
25 subsequent order under ~~the provisions of~~ Section 1203.4 of the  
26 Penal Code.

27 SEC. 4. Section 650 of the Business and Professions Code is  
28 amended to read:

29 650. (a) Except as provided in Chapter 2.3 (commencing with  
30 Section 1400) of Division 2 of the Health and Safety Code, the  
31 offer, delivery, receipt, or acceptance by any person licensed under  
32 this division or the Chiropractic Initiative Act of any rebate, refund,  
33 commission, preference, patronage dividend, discount, or other  
34 consideration, whether in the form of money or otherwise, as  
35 compensation or inducement for referring patients, clients, or  
36 customers to any person, irrespective of any membership,  
37 proprietary interest or coownership in or with any person to whom  
38 these patients, clients, or customers are referred is unlawful.

39 (b) The payment or receipt of consideration for services other  
40 than the referral of patients which is based on a percentage of gross

revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a ~~federally-qualified~~ *federally qualified* health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 *of this code*, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) (1) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 *of this code*, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, necessary and used solely to receive and transmit electronic prescription information in accordance with the standards set forth in Section 1860D-4(e) of the Medicare Prescription Drug,

1 Improvement, and Modernization Act of 2003 (42 U.S.C. Sec.  
2 1395w-104) in the following situations:

3 (A) In the case of a hospital, by the hospital to members of its  
4 medical staff.

5 (B) In the case of a group medical practice, by the practice to  
6 prescribing health care professionals that are members of the  
7 practice.

8 (C) In the case of Medicare prescription drug plan sponsors or  
9 Medicare Advantage organizations, by the sponsor or organization  
10 to pharmacists and pharmacies participating in the network of the  
11 sponsor or organization and to prescribing health care  
12 professionals.

13 (2) The exceptions set forth in this subdivision are adopted to  
14 conform state law with the provisions of Section 1860D-4(e)(6)  
15 of the Medicare Prescription Drug, Improvement, and  
16 Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) and are  
17 limited to drugs covered under Part D of the federal Medicare  
18 Program that are prescribed to Part D eligible individuals (42  
19 U.S.C. Sec. 1395w-101).

20 (3) The exceptions set forth in this subdivision shall not be  
21 operative until the regulations required to be adopted by the  
22 Secretary of the United States Department of Health and Human  
23 Services, pursuant to Section 1860D-4(e) of the Medicare  
24 Prescription Drug, Improvement, and Modernization Act of 2003  
25 (42 U.S.C. Sec. 1395W-104) are effective. If the California Health  
26 and Human Services Agency determines that regulations are  
27 necessary to ensure that implementation of the provisions of  
28 paragraph (1) is consistent with the regulations adopted by the  
29 Secretary of the United States Department of Health and Human  
30 Services, it shall adopt emergency regulations to that effect.

31 (f) "Health care facility" means a general acute care hospital,  
32 acute psychiatric hospital, skilled nursing facility, intermediate  
33 care facility, and any other health facility licensed by the State  
34 Department of Public Health under Chapter 2 (commencing with  
35 Section 1250) of Division 2 of the Health and Safety Code.

36 (g) A violation of this section is a public offense and is  
37 punishable upon a first conviction by imprisonment in ~~the~~ a county  
38 jail for not more than one year, or by imprisonment in the state  
39 prison, or by a fine not exceeding fifty thousand dollars (\$50,000),  
40 or by both that imprisonment and fine. A second or subsequent

1 conviction is punishable by imprisonment in the state prison or by  
2 imprisonment in the state prison and a fine of fifty thousand dollars  
3 (\$50,000).

4 SEC. 5. Section 1265.1 of the Business and Professions Code  
5 is amended to read:

6 1265.1. (a) A primary care clinic that submits an application  
7 to the State Department of Public Health for clinic licensure  
8 pursuant to subdivision (a) of Section 1204 of the Health and Safety  
9 Code may submit prior to *that submission*, or concurrent therewith,  
10 an application for licensure or registration of a clinical laboratory  
11 to be operated by the clinic.

12 (b) An application for licensure of a clinical laboratory submitted  
13 pursuant to this section shall be subject to all applicable laboratory  
14 licensing laws and regulations, including, but not limited to, any  
15 statutory or regulatory timelines and processes for review of a  
16 clinical laboratory application.

17 SEC. 6. Section 1625.4 of the Business and Professions Code  
18 is amended to read:

19 1625.4. (a) Where the dental practice of an incapacitated or  
20 deceased dentist is a sole proprietorship or where an incapacitated  
21 or deceased dentist is the sole shareholder of a professional dental  
22 corporation, a person identified in subdivision (a) of Section 1625.3  
23 may enter into a contract with one or more dentists licensed in the  
24 state to continue the operations of the incapacitated or deceased  
25 dentist's dental practice for a period of no more than 12 months  
26 from the date of death or incapacity, or until the practice is sold  
27 or otherwise disposed of, whichever occurs first, if all of the  
28 following conditions are met:

29 (1) The person identified in subdivision (a) of Section 1625.3  
30 delivers to the board a notification of death or incapacity that  
31 includes all of the following information:

32 (A) The name and license number of the deceased or  
33 incapacitated dentist.

34 (B) The name and address of the dental practice.

35 (C) If the dentist is deceased, the name, address, and tax  
36 identification number of the estate or trust.

37 (D) The name and license number of each dentist who will  
38 operate the dental practice.

39 (E) A statement that the information provided is true and correct,  
40 and that the person identified in subdivision (a) of Section 1625.3

1 understands that any interference by the person or by his or her  
2 assignee with the contracting dentist's or dentists' practice of  
3 dentistry or professional judgment is grounds for immediate  
4 termination of the operations of the dental practice without a  
5 hearing. The statement shall also provide that if the person required  
6 to make this notification willfully states as true any material fact  
7 that he or she knows to be false, he or she shall be subject to a civil  
8 penalty of up to ten thousand dollars (\$10,000) in an action brought  
9 by any public prosecutor. A civil penalty imposed under this  
10 subparagraph shall be enforced as a civil judgment.

11 (2) The dentist or dentists who will operate the practice shall  
12 be licensed by the board and that license shall be current, valid,  
13 and shall not be suspended, restricted, or otherwise the subject of  
14 discipline.

15 (3) Within 30 days after the death or incapacity of a dentist, the  
16 person identified in subdivision (a) of Section 1625.3 or the  
17 contracting dentist or dentists shall send notification of the death  
18 or incapacity by mail to the last known address of each current  
19 patient of record with an explanation of how copies of the patient's  
20 records may be obtained. This notice may also contain any other  
21 relevant information concerning the continuation of the dental  
22 practice. The failure to comply with the notification requirement  
23 within the 30-day period shall be grounds for terminating the  
24 operation of the dental practice under subdivision (b). The  
25 contracting dentist or dentists shall obtain a form signed by the  
26 patient, or the patient's guardian or legal representative, that  
27 releases the patient's confidential dental records to the contracting  
28 dentist or dentists prior to use of those records.

29 (b) The board may order the termination of the operations of a  
30 dental practice operating pursuant to this section if the board  
31 determines that the practice is operating in violation of this section.  
32 The board shall provide written notification at the address provided  
33 pursuant to subparagraph (B) of paragraph (1) of subdivision (a).  
34 If the board does not receive a written appeal of the determination  
35 that the practice is operating in violation of this section within 10  
36 days of receipt of the notice, the determination to terminate the  
37 operations of the dental practice shall take effect immediately. If  
38 an appeal is received in a timely ~~matter~~ *manner* by the board, the  
39 executive officer of the board, or his or her designee, shall conduct  
40 an informal hearing. The decision of the executive officer or his



1 or her designee shall be mailed to the practice no later than 10 days  
2 after the informal hearing, is the final decision in the ~~manner~~  
3 ~~matter~~; and is not subject to appeal under the Administrative  
4 Procedure Act (Chapter 5 (commencing with Section 11500) of  
5 Part 1 of Division 3 of Title 2 of the Government Code).

6 (c) Notwithstanding subdivision (b), if the board finds evidence  
7 that the person identified in subdivision (a) of Section 1625.3, or  
8 his or her assignee, has interfered with the practice or professional  
9 judgment of the contracting dentist or dentists or otherwise finds  
10 evidence that a violation of this section constitutes an immediate  
11 threat to the public health, safety, or welfare, the board may  
12 immediately order the termination of the operations of the dental  
13 practice without an informal hearing.

14 (d) A notice of an order of immediate termination of the dental  
15 practice without an informal hearing, as referenced in subdivision  
16 (b), shall be served by certified mail on the person identified in  
17 subdivision (a) of Section 1625.3 at the address provided pursuant  
18 to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as  
19 appropriate, and on the contracting dentist or dentists at the address  
20 of the dental practice provided pursuant to subparagraph (B) of  
21 paragraph (1) of subdivision (a).

22 (e) A person receiving notice of an order of immediate  
23 termination pursuant to subdivision (d) may petition the board  
24 within 30 days of the date of service of the notice for an informal  
25 hearing before the executive officer or his or her designee, which  
26 shall take place within 30 days of the filing of the petition.

27 (f) A notice of the decision of the executive officer or his or her  
28 designee following an informal hearing held pursuant to  
29 subdivision (b) shall be served by certified mail on the person  
30 identified in subdivision (a) of Section 1625.3 at the address  
31 provided pursuant to subparagraph (B) or (C) of paragraph (1) of  
32 subdivision (a), as appropriate, and on the contracting dentist or  
33 dentists at the address of the dental practice provided pursuant to  
34 subparagraph (B) of paragraph (1) of subdivision (a).

35 (g) The board may require the submission to the board of any  
36 additional information necessary for the administration of this  
37 section.

38 SEC. 7. Section 3152 of the Business and Professions Code is  
39 amended to read:

1     3152. The ~~amount~~ *amounts* of fees and penalties prescribed  
2 by this chapter shall be established by the board in amounts not  
3 greater than those specified in the following schedule:

4     (a) The fee for applicants applying for a license shall not exceed  
5 two hundred seventy-five dollars (\$275).

6     (b) The fee for renewal of an optometric license shall not exceed  
7 five hundred dollars (\$500).

8     (c) The annual fee for the renewal of a branch office license  
9 shall not exceed seventy-five dollars (\$75).

10    (d) The fee for a branch office license shall not exceed  
11 seventy-five dollars (\$75).

12    (e) The penalty for failure to pay the annual fee for renewal of  
13 a branch office license shall not exceed twenty-five dollars (\$25).

14    (f) The fee for issuance of a license or upon change of name  
15 authorized by law of a person holding a license under this chapter  
16 shall not exceed twenty-five dollars (\$25).

17    (g) The delinquency fee for renewal of an optometric license  
18 shall not exceed fifty dollars (\$50).

19    (h) The application fee for a certificate to treat lacrimal irrigation  
20 and dilation shall not exceed fifty dollars (\$50).

21    (i) The application fee for a certificate to treat primary ~~open~~  
22 ~~angle~~ *open-angle* glaucoma shall not exceed fifty dollars (\$50).

23    (j) The fee for approval of a continuing education course shall  
24 not exceed one hundred dollars (\$100).

25    (k) The fee for issuance of a statement of licensure shall not  
26 exceed forty dollars (\$40).

27    (l) The fee for biennial renewal of a statement of licensure shall  
28 not exceed forty dollars (\$40).

29    (m) The delinquency fee for renewal of a statement of licensure  
30 shall not exceed twenty dollars (\$20).

31    (n) The application fee for a fictitious name permit shall not  
32 exceed fifty dollars (\$50).

33    (o) The renewal fee for a fictitious name permit shall not exceed  
34 fifty dollars (\$50).

35    (p) The delinquency fee for renewal of a fictitious name permit  
36 shall not exceed twenty-five dollars (\$25).

37    SEC. 8. Section 3702 of the Business and Professions Code is  
38 amended to read:

39    3702. Respiratory care as a practice means a health care  
40 profession employed under the supervision of a medical director

1 in the therapy, management, rehabilitation, diagnostic evaluation,  
2 and care of patients with deficiencies and abnormalities which  
3 affect the pulmonary system and associated aspects of  
4 cardiopulmonary and other systems functions, and includes all of  
5 the following:

6 (a) Direct and indirect pulmonary care services that are safe,  
7 aseptic, ~~preventative~~ *preventive*, and restorative to the patient.

8 (b) Direct and indirect respiratory care services, including, but  
9 not limited to, the administration of pharmacological and diagnostic  
10 and therapeutic agents related to respiratory care procedures  
11 necessary to implement a treatment, disease prevention, pulmonary  
12 rehabilitative, or diagnostic regimen prescribed by a physician and  
13 surgeon.

14 (c) Observation and monitoring of signs and symptoms, general  
15 behavior, general physical response to respiratory care treatment  
16 and diagnostic testing and (1) determination of whether such signs,  
17 symptoms, reactions, behavior, or general response ~~exhibit~~ *exhibits*  
18 abnormal characteristics; (2) implementation based on observed  
19 abnormalities of appropriate reporting or referral or respiratory  
20 care protocols, or changes in treatment regimen, pursuant to a  
21 prescription by a physician and surgeon or the initiation of  
22 emergency procedures.

23 (d) The diagnostic and ~~therapeutic~~ *therapeutic* use of any of the  
24 following, in accordance with the prescription of a physician and  
25 surgeon: administration of medical gases, exclusive of general  
26 anesthesia; aerosols; humidification; environmental control systems  
27 and baromedical therapy; pharmacologic agents related to  
28 respiratory care procedures; mechanical or physiological ventilatory  
29 support; bronchopulmonary hygiene; cardiopulmonary  
30 resuscitation; maintenance of the natural airways; insertion without  
31 cutting tissues and maintenance of artificial airways; diagnostic  
32 and testing techniques required for implementation of respiratory  
33 care protocols; collection of specimens of blood; collection of  
34 specimens from the respiratory tract; analysis of blood gases and  
35 respiratory secretions.

36 (e) The transcription and implementation of the written and  
37 verbal orders of a physician and surgeon pertaining to the practice  
38 of respiratory care.

39 “Respiratory care protocols” as used in this section means  
40 policies and protocols developed by a licensed health facility

1 through collaboration, when appropriate, with administrators,  
2 physicians and surgeons, registered nurses, physical therapists,  
3 respiratory care practitioners, and other licensed health care  
4 practitioners.

5 SEC. 9. Section 4999.2 of the Business and Professions Code  
6 is amended to read:

7 4999.2. (a) In order to obtain and maintain a registration,  
8 in-state or out-of-state telephone medical advice services shall  
9 comply with the requirements established by the department. Those  
10 requirements shall include, but shall not be limited to, all of the  
11 following:

12 (1) (A) Ensuring that all staff who provide medical advice  
13 services are appropriately licensed, certified, or registered as a  
14 physician and surgeon pursuant to Chapter 5 (commencing with  
15 Section 2000) or the Osteopathic Initiative Act, as a dentist  
16 pursuant to Chapter 4 (commencing with Section 1600), as a dental  
17 hygienist pursuant to Sections 1760 to 1775, inclusive, as a  
18 psychologist pursuant to Chapter 6.6 (commencing with Section  
19 2900), *as an optometrist pursuant to Chapter 7 (commencing with*  
20 *Section 3000)*, as a marriage and family therapist pursuant to  
21 Chapter 13 (commencing with Section 4980), as a licensed clinical  
22 social worker pursuant to Chapter 14 (commencing with Section  
23 ~~4990~~ 4991), ~~as an optometrist pursuant to Chapter 7 (commencing~~  
24 ~~with Section 3000)~~, or as a chiropractor pursuant to the  
25 Chiropractic Initiative Act, and operating consistent with the laws  
26 governing their respective scopes of practice in the state within  
27 which they provide telephone medical advice services, except as  
28 provided in paragraph (2).

29 (B) Ensuring that all staff who provide telephone medical advice  
30 services from an out-of-state location are health care professionals,  
31 as identified in subparagraph (A), who are licensed, registered, or  
32 certified in the state within which they are providing the telephone  
33 medical advice services and are operating consistent with the laws  
34 governing their respective scopes of practice.

35 (2) Ensuring that all registered nurses providing telephone  
36 medical advice services to both in-state and out-of-state business  
37 entities registered pursuant to this chapter are licensed pursuant  
38 to Chapter 6 (commencing with Section 2700).

39 (3) Ensuring that the telephone medical advice provided is  
40 consistent with good professional practice.

1 (4) Maintaining records of telephone medical advice services,  
2 including records of complaints, provided to patients in California  
3 for a period of at least five years.

4 (5) Ensuring that no staff member uses a title or designation  
5 when speaking to an enrollee or subscriber that may cause a  
6 reasonable person to believe that the staff member is a licensed,  
7 certified, or registered professional described in subparagraph (A)  
8 of paragraph (1), unless the staff member is a licensed, certified,  
9 or registered professional.

10 (6) Complying with all directions and requests for information  
11 made by the department.

12 (b) To the extent permitted by Article VII of the California  
13 Constitution, the department may contract with a private nonprofit  
14 accrediting agency to evaluate the qualifications of applicants for  
15 registration pursuant to this chapter and to make recommendations  
16 to the department.

17 SEC. 10. Section 4999.7 of the Business and Professions Code  
18 is amended to read:

19 4999.7. (a) ~~Nothing in this section shall~~ *This section does not*  
20 limit, preclude, or otherwise interfere with the practices of other  
21 persons licensed or otherwise authorized to practice, under any  
22 other provision of this division, telephone medical advice services  
23 consistent with the laws governing their respective scopes of  
24 practice, or licensed under the Osteopathic Initiative Act or the  
25 Chiropractic Initiative Act and operating consistent with the laws  
26 governing their respective scopes of practice.

27 (b) ~~For the purposes of this chapter, “telephone medical advice”~~  
28 means a telephonic communication between a patient and a health  
29 care professional in which the health care professional’s primary  
30 function is to provide to the patient a telephonic response to the  
31 patient’s questions regarding his or her or a family member’s  
32 medical care or treatment. “Telephone medical advice” includes  
33 assessment, evaluation, or advice provided to patients or their  
34 family members.

35 (c) ~~For the purposes of this chapter, “health care professional”~~  
36 is a staff person described in Section 4999.2 who provides medical  
37 advice services and is appropriately licensed, certified, or registered  
38 ~~as a registered nurse pursuant to Chapter 6 (commencing with~~  
39 ~~Section 2700), as a physician and surgeon pursuant to Chapter 5~~  
40 ~~(commencing with Section 2000) or the Osteopathic Initiative Act,~~

1 as a dentist pursuant to Chapter 4 (commencing with Section 1600),  
2 as a dental hygienist pursuant to Sections 1760 to 1775, inclusive,  
3 *as a physician and surgeon pursuant to Chapter 5 (commencing*  
4 *with Section 2000) or the Osteopathic Initiative Act, as a registered*  
5 *nurse pursuant to Chapter 6 (commencing with Section 2700), as*  
6 *a psychologist pursuant to Chapter 6.6 (commencing with Section*  
7 *2900), as an optometrist pursuant to Chapter 7 (commencing with*  
8 *Section 3000), as a marriage and family therapist pursuant to*  
9 *Chapter 13 (commencing with Section 4980), as a licensed clinical*  
10 *social worker pursuant to Chapter 14 (commencing with Section*  
11 *4990) 4991), as an optometrist pursuant to Chapter 7 (commencing*  
12 *with Section 3000), or as a chiropractor pursuant to the*  
13 *Chiropractic Initiative Act, and who is operating consistent with*  
14 *the laws governing his or her respective scopes of practice in the*  
15 *state in which he or she provides telephone medical advice services.*

16 SEC. 11. Section 5216.6 of the Business and Professions Code  
17 is amended to read:

18 5216.6. (a) “Officially designated scenic highway or scenic  
19 byway” is any state highway that has been officially designated  
20 and maintained as a state scenic highway pursuant to Sections 260,  
21 261, 262, and 262.5 of the Streets and Highways Code or that has  
22 been officially designated a scenic byway as referred to in Section  
23 131 (s) of Title 23 of the United States Code.

24 (b) “Officially designated scenic highway or scenic byway”  
25 does not include routes listed as part of the State Scenic Highway  
26 system, *Article 2.5 (commencing with Section 260) of Chapter 2*  
27 *of Division 1 of the Streets and Highway Highways Code, Section*  
28 *263, et seq.*, unless those routes, or segments of those routes, have  
29 been designated as officially designated state scenic highways.

30 SEC. 12. Section 5616 of the Business and Professions Code  
31 is amended to read:

32 5616. (a) A landscape architect shall use a written contract  
33 when contracting to provide professional services to a client  
34 pursuant to this chapter. The written contract shall be executed by  
35 the landscape architect and the client, or their representatives, prior  
36 to the landscape architect commencing work, unless the client  
37 knowingly states in writing that work may be commenced before  
38 the contract is executed. The written contract shall include, but  
39 not be limited to, all of the following:

1 (1) A description of services to be provided by the landscape  
2 architect to the client.

3 (2) A description of any basis of compensation applicable to  
4 the contract, including the total price that is required to complete  
5 the contract, and the method of payment agreed upon by both  
6 parties.

7 (3) A notice that reads:

8 “Landscape architects are licensed by the State of California.”

9 (4) The name, address, and license number of the landscape  
10 architect and the name and address of the client.

11 (5) A description of the procedure that the landscape architect  
12 and client will use to accommodate additional services.

13 (6) A description of the procedure to be used by either party to  
14 terminate the contract.

15 (b) This section shall not apply if the client knowingly states in  
16 writing after full disclosure of this section that a contract that  
17 complies with the requirements of this section is not required.

18 (c) This section shall not apply to any of the following:

19 (1) Professional services rendered by a landscape architect for  
20 which the client will not pay compensation.

21 (2) An arrangement as to the basis for compensation and manner  
22 of providing professional services implied by the fact that the  
23 landscape architect’s services are of the same general kind that the  
24 landscape architect has previously rendered to, and received  
25 payment *for* from, the same client.

26 (3) Professional services rendered by a landscape architect to  
27 any of the following:

28 (A) A landscape architect licensed under this chapter.

29 (B) An architect licensed under Chapter 3 (commencing with  
30 Section 5500).

31 (C) A professional engineer licensed under Chapter 7  
32 (commencing with Section 6700).

33 ~~(D) A professional land surveyor licensed under Chapter 15~~  
34 ~~(commencing with Section 8700).~~

35 ~~(E)~~

36 (D) A contractor licensed under Chapter 9 (commencing with  
37 Section 7000).

38 ~~(F)~~

39 (E) A geologist or geophysicist licensed under Chapter 12.5  
40 (commencing with Section 7800).

1 (F) A professional land surveyor licensed under Chapter 15  
2 (commencing with Section 8700).

3 (G) A manufacturing, mining, public utility, research and  
4 development, or other industrial corporation, if the services are  
5 provided in connection with, or incidental to, the products, systems,  
6 or services of that corporation or its affiliates.

7 (H) A public agency.

8 (d) As used in this section, “written contract” includes a contract  
9 that is in electronic form.

10 SEC. 13. Section 5640 of the Business and Professions Code  
11 is amended to read:

12 5640. It is a misdemeanor, punishable by a fine of not less than  
13 one hundred dollars (\$100) nor more than five thousand dollars  
14 (\$5,000) or by imprisonment in the a county jail not exceeding six  
15 months, or by both that fine and imprisonment, for a person to do  
16 any of the following without possessing a valid, unrevoked license  
17 as provided in this chapter:

18 (a) Engage in the practice of landscape architecture.

19 (b) Use the title or term “landscape~~—architect~~”, *architect*,  
20 “landscape architecture,” “landscape architectural,” or any other  
21 titles, words, or abbreviations that would imply or indicate that he  
22 or she is a landscape architect as defined in Section 5615.

23 (c) Use the stamp of a licensed landscape architect, as provided  
24 in Section 5659.

25 (d) Advertise or put out a sign, card, or other device that might  
26 indicate to the public that he or she is a licensed landscape architect  
27 or qualified to engage in the practice of landscape architecture.

28 SEC. 14. Section 6073 of the Business and Professions Code  
29 is amended to read:

30 6073. It has been the tradition of those learned in the law and  
31 licensed to practice law in this state to provide voluntary pro bono  
32 legal services to those who cannot afford the help of a lawyer.  
33 Every lawyer authorized and privileged to practice law in California  
34 is expected to make a contribution. In some circumstances, it may  
35 not be feasible for a lawyer to directly provide pro bono services.  
36 In those circumstances, a lawyer may instead fulfill his or her  
37 individual pro bono ethical commitment, in part, by providing  
38 financial support to organizations providing free legal services to  
39 persons of limited means. In deciding to provide that financial  
40 support, the lawyer should, at minimum, approximate the value



1 of the hours of pro bono legal service that he or she would  
2 otherwise have provided. In some circumstances, pro bono  
3 contributions may be measured collectively, as by a firm's  
4 aggregate pro bono activities or financial contributions. Lawyers  
5 also make invaluable contributions through their other voluntary  
6 public service activities that increase access to justice or improve  
7 the law and the legal system. In view of their expertise in areas  
8 that critically affect the lives and well-being of members of the  
9 public, lawyers are uniquely situated to provide invaluable  
10 assistance *in order* to benefit those who might otherwise be unable  
11 to assert or protect their interests, and to support those legal  
12 organizations that advance these goals.

13 SEC. 15. Section 6212 of the Business and Professions Code  
14 is amended to read:

15 6212. An attorney who, or a law firm that, establishes an  
16 IOLTA account pursuant to subdivision (a) of Section 6211 shall  
17 comply with all of the following provisions:

18 (a) The IOLTA account shall be established and maintained  
19 with an eligible institution offering or making available an IOLTA  
20 account that meets the requirements of this article. The IOLTA  
21 account shall be established and maintained consistent with the  
22 ~~attorney~~ attorney's or law firm's duties of professional  
23 responsibility. An eligible financial institution shall have no  
24 responsibility for selecting the deposit or investment product  
25 chosen for the IOLTA account.

26 (b) Except as provided in subdivision (e), the rate of interest or  
27 dividends payable on any IOLTA account shall not be less than  
28 the interest rate or dividends generally paid by the eligible  
29 institution to nonattorney customers on accounts of the same type  
30 meeting the same minimum balance and other eligibility  
31 requirements as the IOLTA account. In determining the interest  
32 rate or dividend payable on any IOLTA account, an eligible  
33 institution may consider, in addition to the balance in the IOLTA  
34 account, risk or other factors customarily considered by the eligible  
35 institution when setting the interest rate or dividends for its  
36 non-IOLTA accounts, provided that the factors do not discriminate  
37 between IOLTA customers and non-IOLTA customers and that  
38 these factors do not include the fact that the account is an IOLTA  
39 account. The eligible institution shall calculate interest and  
40 dividends in accordance with its standard practice for non-IOLTA

1 customers. Nothing in this article shall preclude an eligible  
2 institution from paying a higher interest rate or dividend on an  
3 IOLTA account or from electing to waive any fees and service  
4 charges on an IOLTA account.

5 (c) Reasonable fees may be deducted from the interest or  
6 dividends remitted on an IOLTA account only at the rates and in  
7 accordance with the customary practices of the eligible institution  
8 for non-IOLTA customers. No other fees or service charges may  
9 be deducted from the interest or dividends earned on an IOLTA  
10 account. Unless and until the State Bar enacts regulations  
11 exempting from compliance with subdivision (a) of Section 6211  
12 those accounts for which maintenance fees exceed the interest or  
13 dividends paid, an eligible institution may deduct the fees and  
14 service charges in excess of the interest or dividends paid on an  
15 IOLTA account from the aggregate interest and dividends remitted  
16 to the State Bar. ~~Any fees~~ *Fees* and service charges other than  
17 reasonable fees shall be the sole responsibility of, and may only  
18 be charged to, the ~~lawyer~~ *attorney* or law firm maintaining the  
19 IOLTA account. ~~No fees or charges may~~ *Fees and charges shall*  
20 *not* be assessed against or deducted from the principal of any  
21 IOLTA account. It is the intent of the Legislature that the State  
22 Bar develop policies so that eligible institutions *do* not incur  
23 uncompensated administrative costs in adapting their systems to  
24 comply with the provisions of ~~Assembly Bill 1723 of the 2007-08~~  
25 ~~Regular Session~~ *Chapter 422 of the Statutes of 2007* or in making  
26 investment products available to IOLTA members.

27 (d) The eligible institution shall be directed to do all of the  
28 following:

29 (1) To remit interest or dividends on the IOLTA account, less  
30 reasonable fees, to the State Bar, at least quarterly.

31 (2) To transmit to the State Bar with each remittance a statement  
32 showing the name of the attorney or law firm for ~~whom~~ *which* the  
33 remittance is sent, for each account the rate of interest applied or  
34 dividend paid, the amount and type of fees deducted, if any, and  
35 the average balance for each account for each month of the period  
36 for which the report is made.

37 (3) To transmit to the attorney or law firm customer at the same  
38 time a report showing the amount paid to the State Bar for that  
39 period, the rate of interest or dividend applied, the amount of fees

1 and service charges deducted, if any, and the average daily account  
2 balance for each month of the period for which the report is made.

3 (e) An eligible institution has no affirmative duty to offer or  
4 make investment products available to IOLTA customers.  
5 However, if an eligible institution offers or makes investment  
6 products available to non-IOLTA customers, in order to remain  
7 an ~~IOLTA-eligible~~ *IOLTA-eligible* institution, it shall make those  
8 products available to IOLTA customers or pay an interest rate on  
9 the IOLTA deposit account that is comparable to the rate of return  
10 or the dividends generally paid on that investment product for  
11 similar customers meeting the same minimum balance and other  
12 requirements applicable to the investment product. If the eligible  
13 institution elects to pay that higher interest rate, the eligible  
14 institution may subject the IOLTA deposit account to equivalent  
15 fees and charges assessable against the investment product.

16 SEC. 16. Section 6213 of the Business and Professions Code  
17 is amended to read:

18 6213. As used in this article:

19 (a) “Qualified legal services project” means either of the  
20 following:

21 (1) A nonprofit project incorporated and operated exclusively  
22 in California which provides as its primary purpose and function  
23 legal services without charge to indigent persons and which has  
24 quality control procedures approved by the State Bar of California.

25 (2) A program operated exclusively in California by a nonprofit  
26 law school accredited by the State Bar of California which meets  
27 the requirements of subparagraphs (A) and (B).

28 (A) The program shall have operated for at least two years at a  
29 cost of at least twenty thousand dollars (\$20,000) per year as an  
30 identifiable law school unit with a primary purpose and function  
31 of providing legal services without charge to indigent persons.

32 (B) The program shall have quality control procedures approved  
33 by the State Bar of California.

34 (b) “Qualified support center” means an incorporated nonprofit  
35 legal services center, ~~which~~ *that* has as its primary purpose and  
36 function the provision of legal training, legal technical assistance,  
37 or advocacy support without charge and which actually provides  
38 through an office in California a significant level of legal training,  
39 legal technical assistance, or advocacy support without charge to  
40 qualified legal services projects on a statewide basis in California.

1 (c) “Recipient” means a qualified legal services project or  
2 support center receiving financial assistance under this article.

3 (d) “Indigent person” means a person whose income is (1) 125  
4 percent or less of the current poverty threshold established by the  
5 United States Office of Management and Budget, or (2) who is  
6 eligible for Supplemental Security Income or free services under  
7 the Older Americans Act or Developmentally Disabled Assistance  
8 Act. With regard to a project ~~which~~ *that* provides free services of  
9 attorneys in private practice without compensation, “indigent  
10 person” also means a person whose income is 75 percent or less  
11 of the maximum levels of income for lower income households  
12 as defined in Section 50079.5 of the Health and Safety Code. For  
13 the purpose of this subdivision, the income of a person who is  
14 disabled shall be determined after deducting the costs of medical  
15 and other disability-related special expenses.

16 (e) “Fee generating case” means ~~any~~ *a* case or matter that, if  
17 undertaken on behalf of an indigent person by an attorney in private  
18 practice, reasonably may be expected to result in payment of a fee  
19 for legal services from an award to a client, from public funds, or  
20 from the opposing party. A case shall not be considered fee  
21 generating if adequate representation is unavailable and any of the  
22 following circumstances exist:

23 (1) The recipient has determined that free referral is not possible  
24 because of any of the following reasons:

25 (A) The case has been rejected by the local lawyer referral  
26 service, or if there is no such service, by two attorneys in private  
27 practice who have experience in the subject matter of the case.

28 (B) Neither the referral service nor any attorney will consider  
29 the case without payment of a consultation fee.

30 (C) The case is of the type that attorneys in private practice in  
31 the area ordinarily do not accept, or do not accept without  
32 prepayment of a fee.

33 (D) Emergency circumstances compel immediate action before  
34 referral can be made, but the client is advised that, if appropriate  
35 and consistent with professional responsibility, referral will be  
36 attempted at a later time.

37 (2) Recovery of damages is not the principal object of the case  
38 and a request for damages is merely ancillary to an action for  
39 equitable or other nonpecuniary relief, or inclusion of a

1 counterclaim requesting damages is necessary for effective defense  
2 or because of applicable rules governing joinder of counterclaims.

3 (3) A court has appointed a recipient or an employee of a  
4 recipient pursuant to a statute or a court rule or practice of equal  
5 applicability to all attorneys in the jurisdiction.

6 (4) The case involves the rights of a claimant under a publicly  
7 supported benefit program for which entitlement to benefit is based  
8 on need.

9 (f) “Legal Services Corporation” means the Legal Services  
10 Corporation established under the Legal Services Corporation Act  
11 of 1974 (~~Public Law~~ (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

12 (g) “Older Americans Act” means the Older Americans Act of  
13 1965, as amended (~~Public Law~~ (P.L. 89-73; 42 U.S.C. Sec. 3001  
14 et seq.).

15 (h) “Developmentally Disabled Assistance Act” means the  
16 Developmentally Disabled Assistance and Bill of Rights Act of  
17 1975, as amended (~~Public Law~~ (P.L. 94-103; 42 U.S.C. Sec. 6001  
18 et seq.).

19 (i) “Supplemental security income recipient” means an  
20 individual receiving or eligible to receive payments under Title  
21 XVI of the federal Social Security Act, or payments under Chapter  
22 3 (commencing with Section 12000) of Part 3 of Division 9 of the  
23 Welfare and Institutions Code.

24 (j) “IOLTA account” means an account or investment product  
25 established and maintained pursuant to subdivision (a) of Section  
26 6211 that is any of the following:

27 (1) An interest-bearing checking account.

28 (2) An investment sweep product that is a daily (overnight)  
29 financial institution repurchase agreement or an open-end  
30 money-market fund.

31 (3) ~~Any other~~ An investment product authorized by California  
32 Supreme Court rule or order.

33 A daily financial institution repurchase agreement shall be fully  
34 collateralized by United States Government Securities or other  
35 comparably conservative debt securities, and may be established  
36 only with any eligible institution that is “well-capitalized” or  
37 “adequately capitalized” as those terms are defined by applicable  
38 federal statutes and regulations. An open-end money-market fund  
39 shall be invested solely in United States Government Securities  
40 or repurchase agreements fully collateralized by United States

1 Government Securities or other comparably conservative debt  
2 securities, shall hold itself out as a “money-market fund” as that  
3 term is defined by federal statutes and regulations under the  
4 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.),  
5 and, at ~~that~~ *the* time of the investment, shall have total assets of at  
6 least two hundred fifty million dollars (\$250,000,000).

7 (k) “Eligible institution” means a bank or any other type of  
8 financial institution authorized by the Supreme Court.

9 SEC. 17. Section 7027.5 of the Business and Professions Code  
10 is amended to read:

11 7027.5. (a) A landscape contractor working within the  
12 classification for which the license is issued may design systems  
13 or facilities for work to be performed and supervised by that  
14 contractor.

15 (b) Notwithstanding any other provision of this chapter, a  
16 landscape contractor working within the classification for which  
17 the license is issued may enter into a prime contract for the  
18 construction of any of the following:

19 (1) A swimming pool, spa, or hot tub, provided *that* the  
20 improvements are included within the landscape project that the  
21 landscape contractor is supervising and the construction of any  
22 swimming pool, spa, or hot tub is subcontracted to a single licensed  
23 contractor holding a Swimming Pool (C-53) classification, *as set*  
24 *forth in Section 832.53 of Title 16 of the California Code of*  
25 *Regulations*, or performed by the landscape contractor if the  
26 landscape contractor also holds a Swimming Pool (C-53)  
27 classification. The contractor constructing the swimming pool,  
28 spa, or hot tub may subcontract with other appropriately licensed  
29 contractors for the completion of individual components of the  
30 construction.

31 (2) An outdoor cooking center, provided that the improvements  
32 are included within a residential landscape project that the  
33 contractor is supervising. For purposes of this subdivision, ~~an~~  
34 “outdoor cooking center” means an unenclosed area within a  
35 landscape that is used for the cooking or preparation of food or  
36 beverages.

37 (3) An outdoor fireplace, provided that it is included within a  
38 residential landscape project that the contractor is supervising and  
39 is not attached to a dwelling.

40 (4)

1     (c) ~~Any work~~ Work performed in connection with a residential  
2     landscape project specified in paragraph (2) or (3) *of subdivision*  
3     (b) that is outside of the field and scope of activities authorized to  
4     be performed under the Landscape Contractor classification (C-27),  
5     as set forth in Section 832.27 of Title 16 of the California Code  
6     of Regulations, may only be performed by a landscape contractor  
7     if the landscape contractor also either holds an appropriate specialty  
8     license classification to perform the work or is licensed as a general  
9     building contractor. If the landscape contractor neither holds an  
10    appropriate specialty license classification to perform the work  
11    nor is licensed as a general building contractor, the work shall be  
12    performed by a specialty contractor holding the appropriate license  
13    classification or by a general building contractor performing work  
14    in accordance with the requirements of subdivision (b) of Section  
15    7057.

16    (e)

17    (d) A violation of this section shall be cause for disciplinary  
18    action.

19    SEC. 18. Section 7159 of the Business and Professions Code  
20    is amended to read:

21    7159. (a) (1) This section identifies the projects for which a  
22    home improvement contract is required, outlines the contract  
23    requirements, and lists the items that shall be included in the  
24    contract, or may be provided as an attachment.

25    (2) This section does not apply to service and repair contracts  
26    that are subject to Section 7159.10, ~~provided if~~ the contract for the  
27    applicable services complies with Sections 7159.10 to 7159.14,  
28    inclusive.

29    (3) This section does not apply to the sale, installation, and  
30    servicing of a fire alarm sold in conjunction with an alarm system,  
31    as defined in subdivision (n) of Section 7590.1, ~~provided if~~ all  
32    costs attributable to making the fire alarm system operable,  
33    including sale and installation costs, do not exceed five hundred  
34    dollars (\$500), and the licensee complies with the requirements  
35    set forth in Section 7159.9.

36    (4) This section does not apply to any costs associated with  
37    monitoring a burglar or fire alarm system.

38    (5) Failure by the licensee, his or her agent or salesperson, or  
39    by a person subject to be licensed under this chapter, to provide  
40    the specified information, notices, and disclosures in the contract,

1 or to otherwise fail to comply with any provision of this section,  
2 is cause for discipline.

3 (b) For purposes of this section, “home improvement contract”  
4 means an agreement, whether oral or written, or contained in one  
5 or more documents, between a contractor and an owner or between  
6 a contractor and a tenant, regardless of the number of residence  
7 or dwelling units contained in the building in which the tenant  
8 resides, if the work is to be performed in, to, or upon the residence  
9 or dwelling unit of the tenant, for the performance of a home  
10 improvement, as defined in Section 7151, and includes all labor,  
11 services, and materials to be furnished and performed thereunder,  
12 if the aggregate contract price specified in one or more  
13 improvement contracts, including all labor, services, and materials  
14 to be furnished by the contractor, exceeds five hundred dollars  
15 (\$500). “Home improvement contract” also means an agreement,  
16 whether oral or written, or contained in one or more documents,  
17 between a salesperson, whether or not he or she is a home  
18 improvement salesperson, and an owner or a tenant, regardless of  
19 the number of residence or dwelling units contained in the building  
20 in which the tenant resides, which provides for the sale, installation,  
21 or furnishing of home improvement goods or services.

22 (c) In addition to the specific requirements listed under this  
23 section, every home improvement contract and any person subject  
24 to licensure under this chapter or his or her agent or salesperson  
25 shall comply with all of the following:

26 (1) The writing shall be legible.

27 (2) Any printed form shall be readable. Unless a larger typeface  
28 is specified in this article, text in any printed form shall be in at  
29 least 10-point typeface and the headings shall be in at least 10-point  
30 boldface type.

31 (3) (A) Before any work is started, the contractor shall give the  
32 buyer a copy of the contract signed and dated by both the contractor  
33 and the buyer. The buyer’s receipt of the copy of the contract  
34 initiates the buyer’s rights to cancel the contract pursuant to  
35 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

36 (B) The contract shall contain on the first page, in a typeface  
37 no smaller than that generally used in the body of the document,  
38 both of the following:

39 (i) The date the buyer signed the contract.



1 (ii) The name and address of the contractor to which the  
2 applicable “Notice of Cancellation” is to be mailed, immediately  
3 preceded by a statement advising the buyer that the “Notice of  
4 Cancellation” may be sent to the contractor at the address noted  
5 on the contract.

6 (4) A statement that, upon satisfactory payment being made for  
7 any portion of the work performed, the contractor-~~shall~~, prior to  
8 any further payment being made, *shall* furnish to the person  
9 contracting for the home improvement or swimming pool work a  
10 full and unconditional release from any claim or mechanic’s lien  
11 pursuant to Section 3114 of the Civil Code for that portion of the  
12 work for which payment has been made.

13 (5) A change-order form for changes or extra work shall be  
14 incorporated into the contract and shall become part of the contract  
15 only if it is in writing and signed by the parties prior to the  
16 commencement of any work covered by a change order.

17 (6) The contract shall contain, in close proximity to the  
18 signatures of the owner and contractor, a notice stating that the  
19 owner or tenant has the right to require the contractor to have a  
20 performance and payment bond.

21 (7) If the contract provides for a contractor to furnish joint  
22 control, the contractor shall not have any financial or other interest  
23 in the joint control.

24 (8) The provisions of this section are not exclusive and do not  
25 relieve the contractor from compliance with any other applicable  
26 provision of law.

27 (d) A home improvement contract and any changes to the  
28 contract shall be in writing and signed by the parties to the contract  
29 prior to the commencement of ~~any~~ work covered by the contract  
30 or *an* applicable change order and, except as provided in paragraph  
31 (8) of subdivision (a) of Section 7159.5, shall include or comply  
32 with all of the following:

33 (1) The name, business address, and license number of the  
34 contractor.

35 (2) If applicable, the name and registration number of the home  
36 improvement salesperson that solicited or negotiated the contract.

37 (3) The following heading on the contract form that identifies  
38 the type of contract in at least 10-point boldface type: “Home  
39 Improvement.”

(4) The following statement in at least 12-point boldface type:  
“You are entitled to a completely filled in copy of this agreement,  
signed by both you and the contractor, before any work may be  
started.”

(5) The heading: “Contract Price,” followed by the amount of  
the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: “Finance  
Charge,” followed by the amount in dollars and cents. The finance  
charge is to be set out separately from the contract amount.

(7) The heading: “Description of the Project and Description  
of the Significant Materials to be Used and Equipment to be  
Installed,” followed by a description of the project and a description  
of the significant materials to be used and equipment to be installed.  
For swimming pools, the project description required under this  
paragraph also shall include a plan and scale drawing showing the  
shape, size, dimensions, and the construction and equipment  
specifications.

(8) If a downpayment will be charged, the details of the  
downpayment shall be expressed in substantially the following  
form, and shall include the text of the notice as specified in  
subparagraph (C):

(A) The heading: ~~“Down Payment.”~~ “*Downpayment.*”

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:  
~~“THE DOWN PAYMENT DOWNPAYMENT MAY NOT~~  
EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE,  
WHICHEVER IS LESS.”

(9) If ~~any~~ payments, other than the downpayment, are to be  
made before the project is completed, the details of these payments,  
known as progress payments, shall be expressed in substantially  
the following form, and shall include the text of the statement as  
specified in subparagraph (C):

(A) A schedule of progress payments shall be preceded by the  
heading: “Schedule of Progress Payments.”

(B) Each progress payment shall be stated in dollars and cents  
and specifically reference the amount of work or services to be  
performed and ~~any~~ materials and equipment to be supplied.

(C) The section of the contract reserved for the progress  
payments shall include the following statement in at least 12-point  
boldface type:

1 “The schedule of progress payments must specifically describe  
2 each phase of work, including the type and amount of work or  
3 services scheduled to be supplied in each phase, along with the  
4 amount of each proposed progress payment. IT IS AGAINST THE  
5 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR  
6 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT  
7 YET DELIVERED. HOWEVER, A CONTRACTOR MAY  
8 REQUIRE A DOWNPAYMENT.”

9 (10) The contract shall address the commencement of work to  
10 be performed in substantially the following form:

11 (A) A statement that describes what constitutes substantial  
12 commencement of work under the contract.

13 (B) The heading: “Approximate Start Date.”

14 (C) The approximate date on which work will be commenced.

15 (11) The estimated completion date of the work shall be  
16 referenced in the contract in substantially the following form:

17 (A) The heading: “Approximate Completion Date.”

18 (B) The approximate date of completion.

19 (12) If applicable, the heading: “List of Documents to be  
20 Incorporated into the Contract,” followed by the list of documents  
21 incorporated into the contract.

22 (13) The heading: “Note about Extra Work and Change Orders,”  
23 followed by the following statement:

24 “Extra Work and Change Orders become part of the contract  
25 once the order is prepared in writing and signed by the parties prior  
26 to the commencement of ~~any~~ work covered by the new change  
27 order. The order must describe the scope of the extra work or  
28 change, the cost to be added or subtracted from the contract, and  
29 the effect the order will have on the schedule of progress  
30 payments.”

31 (e) Except as provided in paragraph (8) of subdivision (a) of  
32 Section 7159.5, all of the following notices shall be provided to  
33 the owner as part of the contract form as specified or, if otherwise  
34 authorized under this subdivision, may be provided as an  
35 attachment to the contract:

36 (1) A notice concerning commercial general liability insurance.  
37 This notice may be provided as an attachment to the contract if  
38 the contract includes the following statement: “A notice concerning  
39 commercial general liability insurance is attached to this contract.”  
40 The notice shall include the heading “Commercial General Liability

1 Insurance (CGL),” followed by whichever of the following  
2 statements is both relevant and correct:

3 (A) “(The name on the license or ‘This contractor’) does not  
4 carry commercial general liability insurance.”

5 (B) “(The name on the license or ‘This contractor’) carries  
6 commercial general liability insurance written by (the insurance  
7 company). You may call ~~the (insurance~~ *(the insurance* company)  
8 at \_\_\_\_\_ to check the contractor’s insurance coverage.”

9 (C) “(The name on the license or ‘This contractor’) is  
10 self-insured.”

11 (2) A notice concerning workers’ compensation insurance. This  
12 notice may be provided as an attachment to the contract if the  
13 contract includes the statement: “A notice concerning workers’  
14 compensation insurance is attached to this contract.” The notice  
15 shall include the heading “Workers’ Compensation Insurance”  
16 followed by whichever of the following statements is correct:

17 (A) “(The name on the license or ‘This contractor’) has no  
18 employees and is exempt from workers’ compensation  
19 requirements.”

20 (B) “(The name on the license or ‘This contractor’) carries  
21 workers’ compensation insurance for all employees.”

22 (3) A notice that provides the buyer with the following  
23 information about the performance of extra or change-order work:

24 (A) A statement that the buyer may not require a contractor to  
25 perform extra or change-order work without providing written  
26 authorization prior to the commencement of ~~any~~ work covered by  
27 the new change order.

28 (B) A statement informing the buyer that extra work or a change  
29 order is not enforceable against a buyer unless the change order  
30 also identifies all of the following in writing prior to the  
31 commencement of ~~any~~ work covered by the new change order:

32 (i) The scope of work encompassed by the order.

33 (ii) The amount to be added or subtracted from the contract.

34 (iii) The effect the order will make in the progress payments or  
35 the completion date.

36 (C) A statement informing the buyer that the contractor’s failure  
37 to comply with the requirements of this paragraph does not  
38 preclude the recovery of compensation for work performed based  
39 upon legal or equitable remedies designed to prevent unjust  
40 enrichment.

1 (4) A notice with the heading “Mechanics’ Lien Warning”  
2 written as follows:

3 ~~“MECHANICS’~~ “*MECHANICS’* LIEN WARNING:

4 Anyone who helps improve your property, but who is not paid,  
5 may record what is called a mechanics’ lien on your property. A  
6 mechanics’ lien is a claim, like a mortgage or home equity loan,  
7 made against your property and recorded with the county recorder.

8 Even if you pay your contractor in full, unpaid subcontractors,  
9 suppliers, and laborers who helped to improve your property may  
10 record mechanics’ liens and sue you in court to foreclose the lien.  
11 If a court finds the lien is valid, you could be forced to pay twice  
12 or have a court officer sell your home to pay the lien. Liens can  
13 also affect your credit.

14 To preserve their right to record a lien, each subcontractor and  
15 material supplier must provide you with a document called a  
16 ‘20-day Preliminary Notice.’ This notice is not a lien. The purpose  
17 of the notice is to let you know that the person who sends you the  
18 notice has the right to record a lien on your property if he or she  
19 is not paid.

20 BE CAREFUL. The Preliminary Notice can be sent up to 20  
21 days after the subcontractor starts work or the supplier provides  
22 material. This can be a big problem if you pay your contractor  
23 before you have received the Preliminary Notices.

24 You will not get Preliminary Notices from your prime contractor  
25 or from laborers who work on your project. The law assumes that  
26 you already know they are improving your property.

27 PROTECT YOURSELF FROM LIENS. You can protect  
28 yourself from liens by getting a list from your contractor of all the  
29 subcontractors and material suppliers that work on your project.  
30 Find out from your contractor when these subcontractors started  
31 work and when these suppliers delivered goods or materials. Then  
32 wait 20 days, paying attention to the Preliminary Notices you  
33 receive.

34 PAY WITH JOINT CHECKS. One way to protect yourself is  
35 to pay with a joint check. When your contractor tells you it is time  
36 to pay for the work of a subcontractor or supplier who has provided  
37 you with a Preliminary Notice, write a joint check payable to both  
38 the contractor and the subcontractor or material supplier.

39 For other ways to prevent liens, visit CSLB’s *Internet* Web site  
40 at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

1 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING  
2 A LIEN PLACED ON YOUR HOME. This can mean that you  
3 may have to pay twice, or face the forced sale of your home to pay  
4 what you owe.”

5 (5) The following notice shall be provided in at least 12-point  
6 typeface:

7 “Information about the Contractors’ State License Board (CSLB):  
8 CSLB is the state consumer protection agency that licenses and  
9 regulates construction contractors.

10 Contact CSLB for information about the licensed contractor you  
11 are considering, including information about disclosable  
12 complaints, disciplinary actions, and civil judgments that are  
13 reported to CSLB.

14 Use only licensed contractors. If you file a complaint against a  
15 licensed contractor within the legal deadline (usually four years),  
16 CSLB has authority to investigate the complaint. If you use an  
17 unlicensed contractor, CSLB may not be able to help you resolve  
18 your complaint. Your only remedy may be in civil court, and you  
19 may be liable for damages arising out of any injuries to the  
20 unlicensed contractor or the unlicensed contractor’s employees.

21 For more information:

22 Visit CSLB’s *Internet* Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

23 Call CSLB at 800-321-CSLB (2752)

24 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

25 (6) (A) The notice set forth in subparagraph (B) and entitled  
26 “Three-Day Right to Cancel,” shall be provided to the buyer unless  
27 the contract is:

28 (i) Negotiated at the contractor’s place of business.

29 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in  
30 paragraph-(8) (7).

31 (iii) Subject to licensure under the Alarm Company Act (Chapter  
32 11.6 (commencing with Section 7590)), provided the alarm  
33 company licensee complies with Sections 1689.5, 1689.6, and  
34 1689.7 of the Civil Code, as applicable.

35 (B) “Three-Day Right to Cancel

36 “You, the buyer, have the right to cancel this contract within  
37 three business days. You may cancel by e-mailing, mailing, faxing,  
38 or delivering a written notice to the contractor at the contractor’s  
39 place of business by midnight of the third business day after you  
40 received a signed and dated copy of the contract that includes this

1 notice. Include your name, your address, and the date you received  
2 the signed copy of the contract and this notice.

3 If you cancel, the contractor must return to you anything you  
4 paid within 10 days of receiving the notice of cancellation. For  
5 your part, you must make available to the contractor at your  
6 residence, in substantially as good condition as you received ~~it~~,  
7 ~~any~~ *them*, goods delivered to you under this contract or sale. Or,  
8 you may, if you wish, comply with the contractor's instructions  
9 on how to return the goods at the contractor's expense and risk. If  
10 you do make the goods available to the contractor and the  
11 contractor does not pick them up within 20 days of the date of your  
12 notice of cancellation, you may keep them without any further  
13 obligation. If you fail to make the goods available to the contractor,  
14 or if you agree to return the goods to the contractor and fail to do  
15 so, then you remain liable for performance of all obligations under  
16 the contract."

17 (C) The "Three-Day Right to Cancel" notice required by this  
18 paragraph shall comply with all of the following:

- 19 (i) The text of the notice is at least 12-point boldface type.  
20 (ii) The notice is in immediate proximity to a space reserved  
21 for the owner's signature.  
22 (iii) The owner acknowledges receipt of the notice by signing  
23 and dating the notice form in the signature space.  
24 (iv) The notice is written in the same language, e.g., Spanish,  
25 as that principally used in any oral sales presentation.  
26 (v) The notice may be attached to the contract if the contract  
27 includes, in at least 12-point boldface type, a checkbox with the  
28 following statement: "The law requires that the contractor give  
29 you a notice explaining your right to cancel. Initial the checkbox  
30 if the contractor has given you a 'Notice of the Three-Day Right  
31 to Cancel.'"  
32 (vi) The notice shall be accompanied by a completed form in  
33 duplicate, captioned "Notice of Cancellation," which *also* shall  
34 ~~also~~ be attached to the agreement or offer to purchase and be easily  
35 detachable, and which shall contain the following statement written  
36 in the same language, e.g., Spanish, as used in the contract:

37  
38 "Notice of Cancellation"

39 /enter date of transaction/  
40 \_\_\_\_\_

(Date)

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

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

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

to \_\_\_\_\_,

/name of seller/

at \_\_\_\_\_

/address of seller’s place of business/

not later than midnight of \_\_\_\_\_.

(Date)

I hereby cancel this transaction. \_\_\_\_\_

(Date)

\_\_\_\_\_  
(Buyer’s signature)

(7) (A) The following notice entitled “Seven-Day Right to Cancel” shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the



1 Governor, or for which a local emergency has been declared by  
2 the executive officer or governing body of any city, county, or city  
3 and county:

4 “Seven-Day Right to Cancel

5 You, the buyer, have the right to cancel this contract within seven  
6 business days. You may cancel by e-mailing, mailing, faxing, or  
7 delivering a written notice to the contractor at the contractor’s  
8 place of business by midnight of the seventh business day after  
9 you received a signed and dated copy of the contract that includes  
10 this notice. Include your name, your address, and the date you  
11 received the signed copy of the contract and this notice.

12 If you cancel, the contractor must return to you anything you  
13 paid within 10 days of receiving the notice of cancellation. For  
14 your part, you must make available to the contractor at your  
15 residence, in substantially as good condition as you received it,  
16 ~~any~~ *them*, goods delivered to you under this contract or sale. Or,  
17 you may, if you wish, comply with the contractor’s instructions  
18 on how to return the goods at the contractor’s expense and risk. If  
19 you do make the goods available to the contractor and the  
20 contractor does not pick them up within 20 days of the date of your  
21 notice of cancellation, you may keep them without any further  
22 obligation. If you fail to make the goods available to the contractor,  
23 or if you agree to return the goods to the contractor and fail to do  
24 so, then you remain liable for performance of all obligations under  
25 the contract.”

26 (B) The “Seven-Day Right to Cancel” notice required by this  
27 subdivision shall comply with all of the following:

28 (i) The text of the notice is at least 12-point boldface type.

29 (ii) The notice is in immediate proximity to a space reserved  
30 for the owner’s signature.

31 (iii) The owner acknowledges receipt of the notice by signing  
32 and dating the notice form in the signature space.

33 (iv) The notice is written in the same language, e.g., Spanish,  
34 as that principally used in any oral sales presentation.

35 (v) The notice may be attached to the contract if the contract  
36 includes, in at least 12-point boldface type, a checkbox with the  
37 following statement: “The law requires that the contractor give  
38 you a notice explaining your right to cancel. Initial the checkbox  
39 if the contractor has given you a ‘Notice of the Seven-Day Right  
40 to Cancel.’”

(vi) The notice shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

/enter date of transaction/

(Date)

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

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

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

to \_\_\_\_\_,

/name of seller/

at \_\_\_\_\_

/address of seller’s place of business/

not later than midnight of \_\_\_\_\_.

(Date)

I hereby cancel this transaction. \_\_\_\_\_

(Date)

(Buyer's signature)

SEC. 19. Section 8698.5 of the Business and Professions Code is amended to read:

8698.5. ~~Any funds~~ *Funds* collected pursuant to this chapter shall be paid to the county and used for the sole ~~purposes~~ *purpose* of funding enforcement and training activities directly related to the structural fumigation program created pursuant to Section 8698. The fees collected under this chapter shall be in addition to, and shall not be used to supplant, ~~any~~ other funds provided to the county agricultural commissioner pursuant to Section 12844 of the Food and Agricultural Code.

SEC. 20. Section 14207 of the Business and Professions Code is amended to read:

14207. (a) Subject to the limitations set forth in this chapter, ~~any~~ a person who uses a mark may file with the secretary, on a form prescribed by the secretary, an application for registration of that mark setting forth, but not limited to, the following information:

(1) The name and business address of the person applying for the registration and, if that person is a corporation or partnership, the state of incorporation or the state in which the partnership is organized and the names of the general partners, as specified by the secretary.

(2) The goods or services on or in connection with which the mark is used, the mode or manner in which the mark is used on or in connection with the goods or services, and the class in which the goods or services fall.

(3) The date on which the mark was first used anywhere and the date when it was first used in this state by the applicant or a predecessor in interest.

(4) A statement that the applicant is the owner of the mark, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered in this state; or has the right to use the mark, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of the other person, to cause confusion, to cause mistake, or to deceive.

(b) The secretary may also require a statement as to whether an application to register the mark, or portions or a composite thereof, has been filed by the applicant or a predecessor in interest with the United States Patent and Trademark Office and, if so, the applicant shall provide full particulars with respect thereto, including the filing date and serial number of each application, the status thereof, and, if any application was finally refused registration or has otherwise not resulted in a registration, the reasons for the refusal or result.

(c) The secretary may also require that a drawing of the mark, complying with requirements specified by the secretary, accompany the application.

(d) The application shall include a declaration of accuracy signed by the applicant ~~or~~, by a member of the firm or an officer of the corporation or association, or by a general partner of the partnership, making application. If the person signing the declaration willfully states as true in the declaration ~~any~~ a material fact that he or she knows to be false, he or she shall be subject to a civil penalty of not more than ten thousand dollars (\$10,000). An action for that penalty may be brought by ~~any~~ a public prosecutor. The person signing the declaration shall be informed of this penalty in writing.

(e) The application shall be accompanied by three specimens showing the mark as actually used.

(f) The application shall be accompanied by the application fee payable to the secretary as set forth in subdivision (a) of Section 12193 of the Government Code.

(g) If the mark or any part of the mark is in any language other than English, the application shall be accompanied by a certified translation in English.

SEC. 21. Section 14245 of the Business and Professions Code is amended to read:

14245. (a) A person who does any of the following shall be subject to a civil action by the owner of the registered mark, and the remedies provided in Section 14250:

(1) Uses, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter in connection with the sale, distribution, offering for sale, or advertising of ~~any~~ goods or services on or in connection

1 with which the use is likely to cause confusion or mistake, or to  
2 deceive as to the source of origin of ~~such~~ *the* goods or services.

3 (2) Reproduces, counterfeits, copies, or colorably imitates ~~any~~  
4 ~~such~~ *the* mark and applies the reproduction, counterfeit, copy, or  
5 colorable imitation to labels, signs, prints, packages, wrappers,  
6 receptacles, or advertisements intended to be used upon or in  
7 connection with the sale or other distribution in this state of ~~any~~  
8 goods or services. The registrant shall not be entitled under this  
9 paragraph to recover profits or damages unless the acts have been  
10 committed with knowledge that the mark is intended to be used  
11 to cause confusion or mistake, or to deceive.

12 (3) Knowingly facilitate, enable, or otherwise assist a person to  
13 manufacture, use, distribute, display, or sell ~~any~~ goods or services  
14 bearing ~~any~~ a reproduction, counterfeit, copy, or colorable imitation  
15 of a mark registered under this chapter, without the consent of the  
16 registrant. ~~Any~~ An action by a person is presumed to have been  
17 taken knowingly following delivery to that person by personal  
18 delivery, courier, or certified mail return receipt requested, of a  
19 written demand to cease and desist that is accompanied by all of  
20 the following:

21 (A) A copy of the certificate of registration and of ~~any~~ a claimed  
22 reproduction, counterfeit, copy, or colorable imitation of the  
23 registered mark.

24 (B) A statement, made under penalty of perjury, by the owner  
25 of the registered mark, by an officer of the corporation that owns  
26 the registered mark, or by legal counsel for the owner of the  
27 registered mark, that includes all of the following:

- 28 (i) The name or description of the infringer.  
29 (ii) The product or service and mark being or to be infringed.  
30 (iii) The dates of the infringement.  
31 (iv) ~~Any other~~ *Other* reasonable information to assist the  
32 recipient to identify the infringer.

33 (4) The presumption created by paragraph (3) does not affect  
34 the owner's burden of showing that there was a violation of this  
35 chapter.

36 (5) Paragraph (3) is applicable to a landlord or property owner  
37 who provides, rents, leases, or licenses the use of real property  
38 where ~~any~~ goods or services bearing ~~any~~ a reproduction,  
39 counterfeit, copy, or colorable imitation of a mark registered  
40 pursuant to this chapter are sold, offered for sale, or advertised,

1 where the landlord or property owner had control of the property  
2 and knew, or had reason to know, of the infringing activity.

3 (b) Notwithstanding any other provision of this chapter, the  
4 remedies given to the owner of the right infringed pursuant to this  
5 section are limited as follows:

6 (1) If an infringer or violator is engaged solely in the business  
7 of printing the mark or violating matter for others and establishes  
8 that he or she was an innocent infringer or innocent violator, the  
9 owner of the right infringed is entitled only to an injunction against  
10 future printing of the mark by the innocent infringer or innocent  
11 violator.

12 (2) If the infringement complained of is contained in, or is part  
13 of, paid advertising matter in a newspaper, magazine, or other  
14 similar periodical, or in an electronic communication as defined  
15 in subsection (12) of Section 2510 of Title 18 of the United States  
16 Code, the remedies of the owner of the right infringed against the  
17 publisher or distributor of the newspaper, magazine, or other  
18 similar periodical or electronic communication shall be confined  
19 to an injunction against the presentation of the advertising matter  
20 in future issues of the newspapers, magazines, or other similar  
21 periodicals or in further transmissions of the electronic  
22 communication. The limitation of this subdivision shall apply only  
23 to innocent infringers and innocent violators.

24 (3) Injunctive relief is not available to the owner of the right  
25 infringed with respect to an issue of a newspaper, magazine, or  
26 other similar periodical or electronic communication containing  
27 infringing matter if restraining the dissemination of the infringing  
28 matter in ~~any~~ a particular issue of the periodical or in an electronic  
29 communication would delay the delivery of the issue or  
30 transmission of the electronic communication after the regular  
31 time for delivery and the delay would be due to the method by  
32 which publication and distribution of the periodical or transmission  
33 of the electronic communication is customarily conducted in  
34 accordance with sound business practice, and not to ~~any~~ a method  
35 or device adopted for the evasion of this section or to prevent or  
36 delay the issuance of an injunction or restraining order with respect  
37 to the infringing matter.

38 (c) An innocent infringer or innocent violator is ~~any~~ a person  
39 whose acts were committed without knowledge that the mark was  
40 intended to be used to cause confusion, mistake, or to deceive.

1 SEC. 22. Section 16721.5 of the Business and Professions  
2 Code is amended to read:

3 16721.5. (a) It is an unlawful trust and an unlawful restraint  
4 of trade for ~~any a~~ person to do the following:

5 (1) Grant or accept ~~any a~~ letter of credit, or other document that  
6 evidences the transfer of funds or credit, or enter into ~~any a~~ contract  
7 for the exchange of goods or services, ~~where if~~ the letter of credit,  
8 contract, or other document contains ~~any a~~ provision that requires  
9 ~~any a~~ person to discriminate against, or to certify that he, she, or  
10 it has not dealt with ~~any other, another~~ person on the basis of any  
11 characteristic listed or defined in subdivision (b) or (e) of Section  
12 51 of the Civil Code, or on the basis of a person's lawful business  
13 associations.

14 (2) To refuse to grant or accept ~~any a~~ letter of credit, or other  
15 document that evidences the transfer of funds or credit, or to refuse  
16 to enter into ~~any a~~ contract for the exchange of goods or services,  
17 on the ground that ~~it the letter, contract, or document~~ does not  
18 contain a discriminatory provision or certification.

19 (b) ~~The provisions of this~~ This section shall not apply to ~~any a~~  
20 letter of credit, contract, or other document that contains ~~any a~~  
21 provision pertaining to a labor dispute or an unfair labor practice  
22 if the other provisions of that letter of credit, contract, or other  
23 document *otherwise* do not ~~otherwise~~ violate the provisions of this  
24 section.

25 (c) For purposes of this section, the prohibition against  
26 discrimination on the basis of a person's business associations  
27 ~~shall be deemed not to~~ *does not* include the requiring of association  
28 with particular employment or a particular group as a prerequisite  
29 to obtaining group rates or discounts on insurance, recreational  
30 activities, or other similar benefits.

31 (d) For purposes of this section, "person" shall include, but not  
32 be limited to, individuals, firms, partnerships, associations,  
33 corporations, and governmental agencies.

34 SEC. 23. Section 17204 of the Business and Professions Code  
35 is amended to read:

36 17204. Actions for Injunctions by Attorney General, District  
37 Attorney, County Counsel, and City Attorneys

38 Actions for ~~any~~ relief pursuant to this chapter shall be prosecuted  
39 exclusively in a court of competent jurisdiction by the Attorney  
40 General or ~~any a~~ district attorney or by ~~any a~~ county counsel

1 authorized by agreement with the district attorney in actions  
 2 involving violation of a county ordinance, or ~~any~~ by a city attorney  
 3 of a city having a population in excess of 750,000, or by a city  
 4 attorney in ~~any~~ a city and county ~~and~~ or, with the consent of the  
 5 district attorney, by a city prosecutor in ~~any~~ a city having a  
 6 full-time city prosecutor in the name of the people of the State of  
 7 California upon their own complaint or upon the complaint of ~~any~~  
 8 a board, officer, person, corporation, or association, or by ~~any~~ a  
 9 person who has suffered injury in fact and has lost money or  
 10 property as a result of the unfair competition.

11 SEC. 24. Section 17913 of the Business and Professions Code  
 12 is amended to read:

13 17913. (a) The fictitious business name statement shall contain  
 14 all of the information required by this subdivision and shall be  
 15 substantially in the following form:

16  
 17 FICTITIOUS BUSINESS NAME STATEMENT

18 The following person (persons) is (are) doing business as

19 \* \_\_\_\_\_  
 20 at \*\* \_\_\_\_\_:

21 \*\*\* \_\_\_\_\_  
 22 \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 \_\_\_\_\_

25 This business is conducted by \*\*\*\* \_\_\_\_\_

26 The registrant commenced to transact business under the fictitious busi-  
 27 ness name or names listed above on

28 \*\*\*\*\* \_\_\_\_\_

29 I declare that all information in this statement is true and correct. (A reg-  
 30 istrant who declares as true information ~~which~~ that he or she knows to be false  
 31 is  
 32 guilty of a crime.)

33 Signed \_\_\_\_\_

34 Statement filed with the County Clerk of \_\_\_\_\_ County on \_\_\_\_\_

35  
 36  
 37 NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF  
 38 SECTION 17920, A FICTITIOUS *BUSINESS* NAME  
 39 STATEMENT GENERALLY EXPIRES AT THE END OF FIVE  
 40 YEARS FROM THE DATE ON WHICH IT WAS FILED IN



1 THE OFFICE OF THE COUNTY CLERK, EXCEPT, AS  
2 PROVIDED IN SUBDIVISION (b) OF SECTION 17920, WHERE  
3 IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS  
4 SET FORTH IN THE STATEMENT PURSUANT TO SECTION  
5 17913 OTHER THAN A CHANGE IN THE RESIDENCE  
6 ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS  
7 BUSINESS NAME STATEMENT MUST BE FILED BEFORE  
8 THE EXPIRATION.

9 THE FILING OF THIS STATEMENT DOES NOT OF ITSELF  
10 AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS  
11 BUSINESS NAME IN VIOLATION OF THE RIGHTS OF  
12 ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW  
13 (SEE SECTION 14411 ET SEQ., BUSINESS AND  
14 PROFESSIONS CODE).

15  
16 (b) The statement shall contain the following information set  
17 forth in the manner indicated in the form provided by subdivision  
18 (a):

19 (1) Where the asterisk (\*) appears in the form, insert the  
20 fictitious business name or names. Only those businesses operated  
21 at the same address and under the same ownership may be listed  
22 on one statement.

23 (2) Where the two asterisks (\*\*) appear in the form: If the  
24 registrant has a place of business in this state, insert the street  
25 address, and county, of his or her principal place of business in  
26 this state. If the registrant has no place of business in this state,  
27 insert the street address, and county, of his or her principal place  
28 of business outside this state.

29 (3) Where the three asterisks (\*\*\*) appear in the form: If the  
30 registrant is an individual, insert his or her full name and residence  
31 address. If the registrants are husband and wife, insert the full name  
32 and residence address of both the husband and the wife. If the  
33 registrant is a general partnership, copartnership, joint venture,  
34 limited liability partnership, or unincorporated association other  
35 than a partnership, insert the full name and residence address of  
36 each general partner. If the registrant is a limited partnership, insert  
37 the full name and residence address of each general partner. If the  
38 registrant is a limited liability company, insert the name and  
39 address of the limited liability company, as set out in its articles  
40 of organization on file with the California Secretary of State, and

1 the state of organization. If the registrant is a trust, insert the full  
2 name and residence address of each trustee. If the registrant is a  
3 corporation, insert the name and address of the corporation, as set  
4 out in its articles of incorporation on file with the California  
5 Secretary of State, and the state of incorporation. If the registrants  
6 are state or local registered domestic partners, insert the full name  
7 and residence address of each domestic partner.

8 (4) Where the four asterisks (\*\*\*\*) appear in the form, insert  
9 whichever of the following best describes the nature of the  
10 business: (i) “an individual,” (ii) “a general partnership,” (iii) “a  
11 limited partnership,” (iv) “a limited liability company,” (v) “an  
12 unincorporated association other than a partnership,” (vi) “a  
13 corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “husband and  
14 wife,” (x) “joint venture,” (xi) “state or local registered domestic  
15 partners,” or (xii) “a limited liability partnership.”

16 (5) Where the five asterisks (\*\*\*\*\* ) appear in the form, insert  
17 the date on which the registrant first commenced to transact  
18 business under the fictitious business name or names listed, if  
19 already transacting business under that name or names. If the  
20 registrant has not yet commenced to transact business under the  
21 fictitious business name or names listed, insert the statement, “Not  
22 applicable.”

23 (c) The registrant shall declare that all of the information in the  
24 statement is true and correct. A registrant who declares as true any  
25 material matter pursuant to this section that he or she knows to be  
26 false is guilty of a misdemeanor.

27 SEC. 25. Section 17915 of the Business and Professions Code  
28 is amended to read:

29 17915. ~~The~~A fictitious business name statement shall be filed  
30 with the clerk of the county in which the registrant has his or her  
31 principal place of business in this state or, if the registrant has no  
32 place of business in this state, with the Clerk of Sacramento  
33 County. ~~Nothing in this chapter shall~~ *This chapter does not*  
34 preclude a person from filing a fictitious business name statement  
35 in a county other than that where the principal place of business  
36 is located, as long as the requirements of this ~~subdivision~~ *section*  
37 are also met.

38 SEC. 26. Section 17929 of the Business and Professions Code  
39 is amended to read:

1 17929. (a) The fee for filing a fictitious business name  
2 statement is ten dollars (\$10) for the first fictitious business name  
3 and owner and two dollars (\$2) for each additional fictitious  
4 business name or owner filed on the same statement and doing  
5 business at the same location. This fee covers the cost of filing  
6 and indexing the statement (and any affidavit of publication), *the*  
7 *cost of* furnishing one certified copy of the statement to the person  
8 filing the statement, and the cost for notifying registrants of the  
9 pending expiration of their fictitious business name statement.

10 (b) The fee for filing a statement of abandonment of use of a  
11 fictitious business name is five dollars (\$5). This fee covers the  
12 cost of filing and indexing the statement, *the cost of* any affidavit  
13 of publication, and *the cost of* furnishing one certified copy of the  
14 statement to the person filing the statement.

15 (c) The fee for filing a statement of withdrawal from partnership  
16 operating under fictitious business name is five dollars (\$5). This  
17 fee covers the cost of filing and indexing the statement, *the cost*  
18 *of* any affidavit of publication, and *the cost of* furnishing one  
19 certified copy of the statement to the person filing the statement.

20 (d) All of the provisions of this section are subject to Section  
21 54985 of the Government Code.

22 SEC. 27. Section 19596.2 of the Business and Professions  
23 Code is amended to read:

24 19596.2. (a) Notwithstanding any other provision of law and  
25 except as provided in Section 19596.4, a thoroughbred racing  
26 association or fair may distribute the audiovisual signal and accept  
27 wagers on the results of out-of-state thoroughbred races conducted  
28 in the United States during the calendar period the association or  
29 fair is conducting a race meeting, including days on which there  
30 is no live racing being conducted by the association or fair, without  
31 the consent of the organization that represents horsemen *and*  
32 *horsewomen* participating in the race meeting and without regard  
33 to the amount of purses, provided that the total number of  
34 thoroughbred races on which wagers are accepted statewide in ~~any~~  
35 *a* given year does not exceed the total number of thoroughbred  
36 races on which wagers were accepted in 1998. Further, the total  
37 number of thoroughbred races imported by associations or fairs  
38 on a statewide basis under this section shall not exceed 23 per day  
39 on days when live thoroughbred or fair racing is being conducted

1 in the state. The limitation of 23 imported races per day does not  
2 apply to any of the following:

3 (1) Races imported for wagering purposes pursuant to  
4 subdivision (c).

5 (2) Races imported that are part of the race card of the Kentucky  
6 Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont  
7 Stakes, the Jockey Club Gold Cup, the Travers Stakes, the  
8 Breeders' Cup, the Dubai Cup, or the Haskell Invitational.

9 (3) Races imported into the northern zone when there is no live  
10 thoroughbred or fair racing being conducted in the northern zone.

11 (4) Races imported into the combined central and southern zones  
12 when there is no live thoroughbred or fair racing being conducted  
13 in the combined central and southern zones.

14 (b) ~~Any~~ A thoroughbred association or fair accepting wagers  
15 pursuant to subdivision (a) shall conduct the wagering in  
16 accordance with the applicable provisions of Sections 19601,  
17 19616, 19616.1, and 19616.2.

18 (c) No thoroughbred association or fair may accept wagers  
19 pursuant to this section on out-of-state races commencing after 7  
20 p.m., ~~Pacific standard time~~ *Standard Time*, without the consent of  
21 the harness or quarter horse racing association that is then  
22 conducting a live racing meeting in Orange or Sacramento ~~Counties~~  
23 *County*.

24 SEC. 28. Section 56.10 of the Civil Code is amended to read:

25 56.10. (a) No provider of health care, health care service plan,  
26 or contractor shall disclose medical information regarding a patient  
27 of the provider of health care or an enrollee or subscriber of a  
28 health care service plan without first obtaining an authorization,  
29 except as provided in subdivision (b) or (c).

30 (b) A provider of health care, a health care service plan, or a  
31 contractor shall disclose medical information if the disclosure is  
32 compelled by any of the following:

33 (1) By a court pursuant to an order of that court.

34 (2) By a board, commission, or administrative agency for  
35 purposes of adjudication pursuant to its lawful authority.

36 (3) By a party to a proceeding before a court or administrative  
37 agency pursuant to a subpoena, subpoena duces tecum, notice to  
38 appear served pursuant to Section 1987 of the Code of Civil  
39 Procedure, or any provision authorizing discovery in a proceeding  
40 before a court or administrative agency.

1 (4) By a board, commission, or administrative agency pursuant  
2 to an investigative subpoena issued under Article 2 (commencing  
3 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title  
4 2 of the Government Code.

5 (5) By an arbitrator or arbitration panel, when arbitration is  
6 lawfully requested by either party, pursuant to a subpoena duces  
7 tecum issued under Section 1282.6 of the Code of Civil Procedure,  
8 or ~~any other~~ *another* provision authorizing discovery in a  
9 proceeding before an arbitrator or arbitration panel.

10 (6) By a search warrant lawfully issued to a governmental law  
11 enforcement agency.

12 (7) By the patient or the patient's representative pursuant to  
13 Chapter 1 (commencing with Section 123100) of Part 1 of Division  
14 106 of the Health and Safety Code.

15 (8) By a coroner, when requested in the course of an  
16 investigation by the coroner's office for the purpose of identifying  
17 the decedent or locating next of kin, or when investigating deaths  
18 that may involve public health concerns, organ or tissue donation,  
19 child abuse, elder abuse, suicides, poisonings, accidents, sudden  
20 infant deaths, suspicious deaths, unknown deaths, or criminal  
21 deaths, or when otherwise authorized by the decedent's  
22 representative. Medical information requested by the coroner under  
23 this paragraph shall be limited to information regarding the patient  
24 who is the decedent and who is the subject of the investigation and  
25 shall be disclosed to the coroner without delay upon request.

26 (9) When otherwise specifically required by law.

27 (c) A provider of health care or a health care service plan may  
28 disclose medical information as follows:

29 (1) The information may be disclosed to providers of health  
30 care, health care service plans, contractors, or other health care  
31 professionals or facilities for purposes of diagnosis or treatment  
32 of the patient. This includes, in an emergency situation, the  
33 communication of patient information by radio transmission or  
34 other means between emergency medical personnel at the scene  
35 of an emergency, or in an emergency medical transport vehicle,  
36 and emergency medical personnel at a health facility licensed  
37 pursuant to Chapter 2 (commencing with Section 1250) of Division  
38 2 of the Health and Safety Code.

39 (2) The information may be disclosed to an insurer, employer,  
40 health care service plan, hospital service plan, employee benefit

1 plan, governmental authority, contractor, or any other person or  
2 entity responsible for paying for health care services rendered to  
3 the patient, to the extent necessary to allow responsibility for  
4 payment to be determined and payment to be made. If (A) the  
5 patient is, by reason of a comatose or other disabling medical  
6 condition, unable to consent to the disclosure of medical  
7 information and (B) no other arrangements have been made to pay  
8 for the health care services being rendered to the patient, the  
9 information may be disclosed to a governmental authority to the  
10 extent necessary to determine the patient's eligibility for, and to  
11 obtain, payment under a governmental program for health care  
12 services provided to the patient. The information may also be  
13 disclosed to another provider of health care or health care service  
14 plan as necessary to assist the other provider or health care service  
15 plan in obtaining payment for health care services rendered by that  
16 provider of health care or health care service plan to the patient.

17 (3) The information may be disclosed to a person or entity that  
18 provides billing, claims management, medical data processing, or  
19 other administrative services for providers of health care or health  
20 care service plans or for any of the persons or entities specified in  
21 paragraph (2). However, ~~no~~ information so disclosed shall *not* be  
22 further disclosed by the recipient in ~~any~~ a way that would violate  
23 this part.

24 (4) The information may be disclosed to organized committees  
25 and agents of professional societies or of medical staffs of licensed  
26 hospitals, licensed health care service plans, professional standards  
27 review organizations, independent medical review organizations  
28 and their selected reviewers, utilization and quality control peer  
29 review organizations as established by Congress in Public Law  
30 97-248 in 1982, contractors, or persons or organizations insuring,  
31 responsible for, or defending professional liability that a provider  
32 may incur, if the committees, agents, health care service plans,  
33 organizations, reviewers, contractors, or persons are engaged in  
34 reviewing the competence or qualifications of health care  
35 professionals or in reviewing health care services with respect to  
36 medical necessity, level of care, quality of care, or justification of  
37 charges.

38 (5) The information in the possession of a provider of health  
39 care or health care service plan may be reviewed by a private or  
40 public body responsible for licensing or accrediting the provider

1 of health care or health care service plan. However, no  
2 patient-identifying medical information may be removed from the  
3 premises except as expressly permitted or required elsewhere by  
4 law, nor shall that information be further disclosed by the recipient  
5 in ~~any~~ a way that would violate this part.

6 (6) The information may be disclosed to the county coroner in  
7 the course of an investigation by the coroner's office when  
8 requested for all purposes not included in paragraph (8) of  
9 subdivision (b).

10 (7) The information may be disclosed to public agencies, clinical  
11 investigators, including investigators conducting epidemiologic  
12 studies, health care research organizations, and accredited public  
13 or private nonprofit educational or health care institutions for bona  
14 fide research purposes. However, no information so disclosed shall  
15 be further disclosed by the recipient in ~~any~~ a way that would  
16 disclose the identity of a patient or violate this part.

17 (8) A provider of health care or health care service plan that has  
18 created medical information as a result of employment-related  
19 health care services to an employee conducted at the specific prior  
20 written request and expense of the employer may disclose to the  
21 employee's employer that part of the information that:

22 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim  
23 or challenge to which the employer and the employee are parties  
24 and in which the patient has placed in issue his or her medical  
25 history, mental or physical condition, or treatment, provided that  
26 information may only be used or disclosed in connection with that  
27 proceeding.

28 (B) Describes functional limitations of the patient that may  
29 entitle the patient to leave from work for medical reasons or limit  
30 the patient's fitness to perform his or her present employment,  
31 provided that no statement of medical cause is included in the  
32 information disclosed.

33 (9) Unless the provider of health care or health care service plan  
34 is notified in writing of an agreement by the sponsor, insurer, or  
35 administrator to the contrary, the information may be disclosed to  
36 a sponsor, insurer, or administrator of a group or individual insured  
37 or uninsured plan or policy that the patient seeks coverage by or  
38 benefits from, if the information was created by the provider of  
39 health care or health care service plan as the result of services  
40 conducted at the specific prior written request and expense of the

1 sponsor, insurer, or administrator for the purpose of evaluating the  
2 application for coverage or benefits.

3 (10) The information may be disclosed to a health care service  
4 plan by providers of health care that contract with the health care  
5 service plan and may be transferred among providers of health  
6 care that contract with the health care service plan, for the purpose  
7 of administering the health care service plan. Medical information  
8 ~~may~~ *shall* not otherwise be disclosed by a health care service plan  
9 except in accordance with the provisions of this part.

10 (11) ~~Nothing in this part shall~~ *This part does not* prevent the  
11 disclosure by a provider of health care or a health care service plan  
12 to an insurance institution, agent, or support organization, subject  
13 to Article 6.6 (commencing with Section 791) of *Chapter 1* of Part  
14 2 of Division 1 of the Insurance Code, of medical information if  
15 the insurance institution, agent, or support organization has  
16 complied with all *of the* requirements for obtaining the information  
17 pursuant to Article 6.6 (commencing with Section 791) of *Chapter*  
18 *1* of Part 2 of Division 1 of the Insurance Code.

19 (12) The information relevant to the patient's condition ~~and,~~  
20 care, and treatment provided may be disclosed to a probate court  
21 investigator in the course of ~~any~~ *an* investigation required or  
22 authorized in a conservatorship proceeding under the  
23 Guardianship-Conservatorship Law as defined in Section 1400 of  
24 the Probate Code, or to a probate court investigator, probation  
25 officer, or domestic relations investigator engaged in determining  
26 the need for an initial guardianship or continuation of an ~~existent~~  
27 *existing* guardianship.

28 (13) The information may be disclosed to an organ procurement  
29 organization or a tissue bank processing the tissue of a decedent  
30 for transplantation into the body of another person, but only with  
31 respect to the donating decedent, for the purpose of aiding the  
32 transplant. For the purpose of this paragraph, ~~the terms~~ "tissue  
33 bank" and "tissue" have the same ~~meaning~~ *meanings* as defined  
34 in Section 1635 of the Health and Safety Code.

35 (14) The information may be disclosed when the disclosure is  
36 otherwise specifically authorized by law, including, but not limited  
37 to, the voluntary reporting, either directly or indirectly, to the  
38 federal Food and Drug Administration of adverse events related  
39 to drug products or medical device problems.



1 (15) Basic information, including the patient's name, city of  
2 residence, age, sex, and general condition, may be disclosed to a  
3 ~~state~~ *state-recognized* or federally recognized disaster relief  
4 organization for the purpose of responding to disaster welfare  
5 inquiries.

6 (16) The information may be disclosed to a third party for  
7 purposes of encoding, encrypting, or otherwise anonymizing data.  
8 However, no information so disclosed shall be further disclosed  
9 by the recipient in ~~any~~ *a* way that would violate this part, including  
10 the unauthorized manipulation of coded or encrypted medical  
11 information that reveals individually identifiable medical  
12 information.

13 (17) For purposes of disease management programs and services  
14 as defined in Section 1399.901 of the Health and Safety Code,  
15 information may be disclosed as follows: (A) to an entity  
16 contracting with a health care service plan or the health care service  
17 plan's contractors to monitor or administer care of enrollees for a  
18 covered benefit, if the disease management services and care are  
19 authorized by a treating physician, or (B) to a disease management  
20 organization, as defined in Section 1399.900 of the Health and  
21 Safety Code, that complies fully with the physician authorization  
22 requirements of Section 1399.902 of the Health and Safety Code,  
23 if the health care service plan or its contractor provides or has  
24 provided a description of the disease management services to a  
25 treating physician or to the health care service plan's or contractor's  
26 network of physicians. ~~Nothing in this paragraph shall be construed~~  
27 ~~to~~ *This paragraph does not* require physician authorization for the  
28 care or treatment of the adherents of a well-recognized church or  
29 religious denomination who depend solely upon prayer or spiritual  
30 means for healing in the practice of the religion of that church or  
31 denomination.

32 (18) The information may be disclosed, as permitted by state  
33 and federal law or regulation, to a local health department for the  
34 purpose of preventing or controlling disease, injury, or disability,  
35 including, but not limited to, the reporting of disease, injury, vital  
36 events, including, but not limited to, birth or death, and the conduct  
37 of public health surveillance, public health investigations, and  
38 public health interventions, as authorized or required by state or  
39 federal law or regulation.

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

(20) The information may be disclosed as described in Section 56.103.

(d) Except to the extent expressly authorized by ~~the~~ a patient or enrollee or subscriber or as provided by subdivisions (b) and (c), ~~no~~ a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall *not* intentionally share, sell, use for marketing, or otherwise use ~~any~~ medical information for ~~any~~ a purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by ~~the~~ a patient or enrollee or subscriber or as provided by subdivisions (b) and (c), ~~no~~ a contractor or corporation and its subsidiaries and affiliates shall *not* further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to ~~any~~ a person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

SEC. 29. Section 798.73 of the Civil Code is amended to read:

798.73. The management ~~may~~ *shall* not require the removal of a mobilehome from the park in the event of ~~its~~ *the sale of the mobilehome* to a third party during the term of the homeowner's rental agreement or in the 60 days following the initial notice required by paragraph (1) of subdivision (b) of Section 798.55. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is not a "mobilehome" within the meaning of Section 798.3.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or

1 more, and the mobilehome does not comply with the health and  
2 safety standards provided in Sections 18550, 18552, and 18605 of  
3 the Health and Safety Code and the regulations established  
4 thereunder, as determined following an inspection by the  
5 appropriate enforcement agency, as defined in Section 18207 of  
6 the Health and Safety Code.

7 (c) The mobilehome is more than 17 years old, or more than 25  
8 years old if manufactured after September 15, 1971, and is less  
9 than 20 feet wide, and the mobilehome does not comply with the  
10 construction and safety standards under Sections 18550, 18552,  
11 and 18605 of the Health and Safety Code and the regulations  
12 established thereunder, as determined following an inspection by  
13 the appropriate enforcement agency, as defined in Section 18207  
14 of the Health and Safety Code.

15 (d) It is in a significantly rundown condition or in disrepair, as  
16 determined by the general condition of the mobilehome and its  
17 acceptability to the health and safety of the occupants and to the  
18 public, exclusive of its age. The management shall use reasonable  
19 discretion in determining the general condition of the mobilehome  
20 and its accessory structures. The management shall bear the burden  
21 of demonstrating that the mobilehome is in a significantly rundown  
22 condition or in disrepair. The management of the park may not  
23 require repairs or improvements to the park space or property  
24 owned by the management, except for damage caused by the  
25 actions or negligence of the homeowner or an agent of the  
26 homeowner.

27 (e) The management shall not require a mobilehome to be  
28 removed from the park, pursuant to this section, unless the  
29 management has provided to the homeowner notice particularly  
30 specifying the condition that permits the removal of the  
31 mobilehome.

32 SEC. 30. Section 1185 of the Civil Code is amended to read:

33 1185. (a) The acknowledgment of an instrument shall not be  
34 taken unless the officer taking it has satisfactory evidence that the  
35 person making the acknowledgment is the individual who is  
36 described in and who executed the instrument.

37 (b) For the purposes of this section, “satisfactory evidence”  
38 means the absence of ~~any~~ information, evidence, or other  
39 circumstances ~~which~~ *that* would lead a reasonable person to believe

1 that the person making the acknowledgment is not the individual  
2 he or she claims to be and any one of the following:

3 (1) (A) The oath or affirmation of a credible witness personally  
4 known to the officer, whose identity is proven to the officer upon  
5 presentation of ~~any~~ a document satisfying the requirements of  
6 paragraph (3) or (4), that the person making the acknowledgment  
7 is personally known to the witness and that each of the following  
8 are true:

9 (i) The person making the acknowledgment is the person named  
10 in the document.

11 (ii) The person making the acknowledgment is personally known  
12 to the witness.

13 (iii) That it is the reasonable belief of the witness that the  
14 circumstances of the person making the acknowledgment are such  
15 that it would be very difficult or impossible for that person to  
16 obtain another form of identification.

17 (iv) The person making the acknowledgment does not possess  
18 any of the identification documents named in paragraphs (3) and  
19 (4).

20 (v) The witness does not have a financial interest in the  
21 document being acknowledged and is not named in the document.

22 (B) A notary public who violates this section by failing to obtain  
23 the satisfactory evidence required by subparagraph (A) shall be  
24 subject to a civil penalty not exceeding ten thousand dollars  
25 (\$10,000). An action to impose this civil penalty may be brought  
26 by the Secretary of State in an administrative proceeding or ~~any~~ a  
27 public prosecutor in superior court, and shall be enforced as a civil  
28 judgment. A public prosecutor shall inform the secretary of any  
29 civil penalty imposed under this subparagraph.

30 (2) The oath or affirmation under penalty of perjury of two  
31 credible witnesses, whose identities are proven to the officer upon  
32 the presentation of ~~any~~ a document satisfying the requirements of  
33 paragraph (3) or (4), that each statement in paragraph (1) ~~of this~~  
34 ~~subdivision~~ is true.

35 (3) Reasonable reliance on the presentation to the officer of any  
36 one of the following, if the document is current or has been issued  
37 within five years:

38 (A) An identification card or driver's license issued by the  
39 ~~California~~ Department of Motor Vehicles.

1 (B) A passport issued by the Department of State of the United  
2 States.

3 (4) Reasonable reliance on the presentation of any one of the  
4 following, provided that a document specified in subparagraphs  
5 (A) to (E), inclusive, shall either be current or have been issued  
6 within five years and shall contain a photograph and description  
7 of the person named on it, shall be signed by the person, shall bear  
8 a serial or other identifying number, and, in the event that the  
9 document is a passport, shall have been stamped by the United  
10 States *Citizenship and Immigration and Naturalization Service*  
11 *Services of the Department of Homeland Security*:

12 (A) A passport issued by a foreign government.

13 (B) A driver's license issued by a state other than California or  
14 by a Canadian or Mexican public agency authorized to issue  
15 ~~drivers'~~ *driver's* licenses.

16 (C) An identification card issued by a state other than California.

17 (D) An identification card issued by any branch of the Armed  
18 Forces of the United States.

19 (E) An inmate identification card issued on or after January 1,  
20 1988, by the Department of Corrections and Rehabilitation, if the  
21 inmate is in custody.

22 (F) An inmate identification card issued prior to January 1,  
23 1988, by the Department of Corrections and Rehabilitation, if the  
24 inmate is in custody.

25 (c) An officer who has taken an acknowledgment pursuant to  
26 this section shall be presumed to have operated in accordance with  
27 the provisions of law.

28 (d) ~~Any~~ A party who files an action for damages based on the  
29 failure of the officer to establish the proper identity of the person  
30 making the acknowledgment shall have the burden of proof in  
31 establishing the negligence or misconduct of the officer.

32 (e) ~~Any~~ A person convicted of perjury under this section shall  
33 forfeit any financial interest in the document.

34 SEC. 31. Section 1789.13 of the Civil Code is amended to  
35 read:

36 1789.13. A credit services organization; and its salespersons,  
37 agents, representatives, and independent contractors who sell or  
38 attempt to sell the services of a credit services organization; shall  
39 not do any of the following:

1 (a) Charge or receive any money or other valuable consideration  
2 prior to full and complete performance of the services the credit  
3 services organization has agreed to perform for or on behalf of the  
4 buyer.

5 (b) Fail to perform the agreed services within six months  
6 following the date the buyer signs the contract for those services.

7 (c) Charge or receive any money or other valuable consideration  
8 for referral of the buyer to a retail seller or other credit grantor  
9 who will or may extend credit to the buyer, if either of the  
10 following apply:

11 (1) The credit ~~which~~ *that* is or will be extended to the buyer (A)  
12 is upon substantially the same terms as those available to the  
13 general public or (B) is upon substantially the same terms that  
14 would have been extended to the buyer without the assistance of  
15 the credit services organization.

16 (2) The money or consideration is paid by the credit grantor or  
17 is derived from the buyer's payments to the credit grantor for ~~any~~  
18 costs, fees, finance charges, or principal.

19 (d) Make, or counsel or advise ~~any a~~ buyer to make, ~~any a~~  
20 statement ~~which~~ *that* is untrue or misleading and ~~which~~ *that* is  
21 known, or ~~which~~ *that* by the exercise of reasonable care should be  
22 known, to be untrue or misleading, to a consumer credit reporting  
23 agency or to ~~any a~~ person who has extended credit to a buyer or  
24 to whom a buyer is applying for an extension of credit, such as  
25 statements concerning a buyer's identification, home address,  
26 creditworthiness, credit standing, or credit capacity.

27 (e) Remove, or assist or advise the buyer to remove, adverse  
28 information from the buyer's credit record which is accurate and  
29 not obsolete.

30 (f) Create, or assist or advise the buyer to create, a new credit  
31 record by using a different name, address, social security number,  
32 or employee identification number.

33 (g) Make or use ~~any~~ untrue or misleading representations in the  
34 offer or sale of the services of a credit services organization,  
35 including either of the following:

36 (1) Guaranteeing or otherwise stating that the organization is  
37 able to delete an adverse credit history, unless the representation  
38 clearly discloses, in a manner equally as conspicuous as the  
39 guarantee, that this can be done only if the credit history is

1 inaccurate or obsolete and is not claimed to be accurate by the  
2 creditor who submitted the information.

3 (2) Guaranteeing or otherwise stating that the organization is  
4 able to obtain an extension of credit, regardless of the buyer's  
5 previous credit problems or credit history, unless the representation  
6 clearly discloses, in a manner equally as conspicuous as the  
7 guarantee, the eligibility requirements for obtaining an extension  
8 of credit.

9 (h) Engage, directly or indirectly, in ~~any~~ *an* act, practice, or  
10 course of business ~~which~~ *that* operates or would operate as a fraud  
11 or deception upon ~~any~~ *a* person in connection with the offer or  
12 sale of the services of a credit services organization.

13 (i) Advertise or cause to be advertised, in any manner, the  
14 services of the credit services organization, without being registered  
15 with the Department of Justice.

16 (j) Fail to maintain an agent for service of process in this state.

17 (k) Transfer or assign its certificate of registration.

18 (l) Submit a buyer's dispute to a consumer credit reporting  
19 agency without the buyer's knowledge.

20 (m) Use a consumer credit reporting agency's telephone system  
21 or toll-free telephone number to represent the caller as the buyer  
22 in submitting a dispute of a buyer or requesting disclosure without  
23 prior authorization of the buyer.

24 (n) Directly or indirectly extend credit to ~~any~~ *a* buyer.

25 (o) Refer ~~any~~ *a* buyer to a credit grantor that is related to the  
26 credit services organization by ~~any~~ *a* common ownership,  
27 management, or control, including ~~any~~ *a* common owner, director,  
28 or officer.

29 (p) Refer ~~any~~ *a* buyer to a credit grantor for which the credit  
30 services organization provides, or arranges for a third party to  
31 provide, ~~any~~ services related to the extension of credit such as  
32 underwriting, billing, payment processing, or debt collection.

33 (q) Provide a credit grantor with ~~any~~ *an* assurance that ~~any~~ *a*  
34 portion of an extension of credit to a buyer referred by the credit  
35 services organization will be repaid, including providing a  
36 guaranty, letter of credit, or agreement to acquire ~~any~~ *a* part of the  
37 credit grantor's financial interest in the extension of credit.

38 (r) Use ~~any~~ *a* scheme, device, or contrivance to evade the  
39 prohibitions contained in this section.

40 SEC. 32. Section 1936 of the Civil Code is amended to read:

1 1936. (a) For the purpose of this section, the following  
2 definitions shall apply:

3 (1) “Rental company” means ~~any~~ a person or entity in the  
4 business of renting passenger vehicles to the public.

5 (2) “Renter” means ~~any~~ a person in any manner obligated under  
6 a contract for the lease or hire of a passenger vehicle from a rental  
7 company for a period of less than 30 days.

8 (3) “Authorized driver” means (A) the renter, (B) the renter’s  
9 spouse if that person is a licensed driver and satisfies the rental  
10 company’s minimum age requirement, (C) the renter’s employer  
11 or coworker if ~~they are~~ *he or she is* engaged in business activity  
12 with the renter, ~~are is a licensed drivers driver,~~ and ~~satisfy~~ *satisfies*  
13 the rental company’s minimum age requirement, and (D) ~~any a~~  
14 person expressly listed by the rental company on the renter’s  
15 contract as an authorized driver.

16 (4) (A) “Customer facility charge” means a fee required by an  
17 airport to be collected by a rental company from a renter for any  
18 of the following purposes:

19 (i) ~~The fee shall be used to~~ *To* finance, design, and construct  
20 consolidated airport car rental facilities.

21 (ii) ~~The fee shall be used to~~ *To* finance, design, construct, and  
22 provide common use transportation systems that move passengers  
23 between airport terminals and those consolidated car rental  
24 facilities.

25 (B) The aggregate amount to be collected ~~may~~ *shall* not exceed  
26 the reasonable costs, as determined by an independent audit paid  
27 for by the airport, to finance, design, and construct those facilities.  
28 Copies of the audit shall be provided to the Assembly and Senate  
29 Committees on Judiciary, the Assembly Committee on  
30 Transportation, and the Senate Committee on Transportation and  
31 Housing. In the case of a transportation system, the audit *also* shall  
32 ~~also~~ consider the reasonable costs of providing the transit system  
33 or busing network. At the Burbank Airport, and at all other airports,  
34 the fees designated as a ~~Customer Facility Charge~~ *may customer*  
35 *facility charge shall* not be used to pay for terminal expansion,  
36 gate expansion, runway expansion, changes in hours of operation,  
37 or changes in the number of flights arriving or departing from the  
38 airport.



1 (C) The authorization given pursuant to this section for an airport  
2 to impose a customer facility charge shall become inoperative  
3 when the bonds used for financing are paid.

4 (5) “Damage waiver” means a rental company’s agreement not  
5 to hold a renter liable for all or any portion of any damage or loss  
6 related to the rented vehicle, any loss of use of the rented vehicle,  
7 or any storage, impound, towing, or administrative charges.

8 (6) “Electronic surveillance technology” means a technological  
9 method or system used to observe, monitor, or collect information,  
10 including telematics, Global Positioning System (GPS), wireless  
11 technology, or location-based technologies. “Electronic  
12 surveillance technology” does not include event data recorders  
13 (EDR), sensing and diagnostic modules (SDM), or other systems  
14 that are used either:

15 (A) For the purpose of identifying, diagnosing, or monitoring  
16 functions related to the potential need to repair, service, or perform  
17 maintenance on the rental vehicle.

18 (B) As part of the vehicle’s airbag sensing and diagnostic system  
19 in order to capture safety systems-related data for retrieval after a  
20 crash has occurred or in the event that the collision sensors are  
21 activated to prepare the decisionmaking computer to make the  
22 determination to deploy or not to deploy the airbag.

23 (7) “Estimated time for replacement” means the number of hours  
24 of labor, or fraction thereof, needed to replace damaged vehicle  
25 parts as set forth in collision damage estimating guides generally  
26 used in the vehicle repair business and commonly known as “crash  
27 books.”

28 (8) “Estimated time for repair” means a good faith estimate of  
29 the reasonable number of hours of labor, or fraction thereof, needed  
30 to repair damaged vehicle parts.

31 (9) “Membership program” means a service offered by a rental  
32 company that permits customers to bypass the rental counter and  
33 go directly to the car previously reserved. A membership program  
34 shall meet all of the following requirements:

35 (A) The renter initiates enrollment by completing an application  
36 on which the renter can specify a preference for type of vehicle  
37 and acceptance or declination of optional services.

38 (B) The rental company fully discloses, prior to the enrollee’s  
39 first rental as a participant in the program, all terms and conditions  
40 of the rental agreement as well as all required disclosures.

1 (C) The renter may terminate enrollment at any time.

2 (D) The rental company fully explains to the renter that  
3 designated preferences, as well as acceptance or declination of  
4 optional services, may be changed by the renter at any time for  
5 the next and future rentals.

6 (E) An employee designated to receive the form specified in  
7 subparagraph (C) of paragraph (1) of subdivision-~~(r)~~ (t) is present  
8 at the lot where the renter takes possession of the car, to receive  
9 any change in the rental agreement from the renter.

10 (10) "Passenger vehicle" means a passenger vehicle as defined  
11 in Section 465 of the Vehicle Code.

12 (b) Except as limited by subdivision (c), a rental company and  
13 a renter may agree that the renter will be responsible for no more  
14 than all of the following:

15 (1) Physical or mechanical damage to the rented vehicle up to  
16 its fair market value, as determined in the customary market for  
17 the sale of that vehicle, resulting from collision regardless of the  
18 cause of the damage.

19 (2) Loss due to theft of the rented vehicle up to its fair market  
20 value, as determined in the customary market for the sale of that  
21 vehicle, provided that the rental company establishes by clear and  
22 convincing evidence that the renter or the authorized driver failed  
23 to exercise ordinary care while in possession of the vehicle. In  
24 addition, the renter shall be presumed to have no liability for any  
25 loss due to theft if (A) an authorized driver has possession of the  
26 ignition key furnished by the rental company or an authorized  
27 driver establishes that the ignition key furnished by the rental  
28 company was not in the vehicle at the time of the theft, and (B) an  
29 authorized driver files an official report of the theft with the police  
30 or other law enforcement agency within 24 hours of learning of  
31 the theft and reasonably cooperates with the rental company and  
32 the police or other law enforcement agency in providing  
33 information concerning the theft. The presumption set forth in this  
34 paragraph is a presumption affecting the burden of proof which  
35 the rental company may rebut by establishing that an authorized  
36 driver committed, or aided and abetted the commission of, the  
37 theft.

38 (3) Physical damage to the rented vehicle up to its fair market  
39 value, as determined in the customary market for the sale of that  
40 vehicle, resulting from vandalism occurring after, or in connection

1 with, the theft of the rented vehicle. However, the renter shall have  
2 no liability for any damage due to vandalism if the renter would  
3 have no liability for theft pursuant to paragraph (2).

4 (4) Physical damage to the rented vehicle up to a total of five  
5 hundred dollars (\$500) resulting from vandalism unrelated to the  
6 theft of the rented vehicle.

7 (5) Actual charges for towing, storage, and impound fees paid  
8 by the rental company if the renter is liable for damage or loss.

9 (6) An administrative charge, which shall include the cost of  
10 appraisal and all other costs and expenses incident to the damage,  
11 loss, repair, or replacement of the rented vehicle.

12 (c) The total amount of the renter's liability to the rental  
13 company resulting from damage to the rented vehicle ~~may~~ shall  
14 not exceed the sum of the following:

15 (1) The estimated cost of parts which the rental company would  
16 have to pay to replace damaged vehicle parts. All discounts and  
17 price reductions or adjustments that are or will be received by the  
18 rental company shall be subtracted from the estimate to the extent  
19 not already incorporated in the estimate, or otherwise promptly  
20 credited or refunded to the renter.

21 (2) The estimated cost of labor to replace damaged vehicle parts,  
22 which ~~may~~ shall not exceed the product of (A) the rate for labor  
23 usually paid by the rental company to replace vehicle parts of the  
24 type that were damaged and (B) the estimated time for replacement.  
25 All discounts and price reductions or adjustments that are or will  
26 be received by the rental company shall be subtracted from the  
27 estimate to the extent not already incorporated in the estimate, or  
28 otherwise promptly credited or refunded to the renter.

29 (3) (A) The estimated cost of labor to repair damaged vehicle  
30 parts, which may not exceed the lesser of the following:

31 (i) The product of the rate for labor usually paid by the rental  
32 company to repair vehicle parts of the type that were damaged and  
33 the estimated time for repair.

34 (ii) The sum of the estimated labor and parts costs determined  
35 under paragraphs (1) and (2) to replace the same vehicle parts.

36 (B) All discounts and price reductions or adjustments that are  
37 or will be received by the rental company shall be subtracted from  
38 the estimate to the extent not already incorporated in the estimate,  
39 or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) may not exceed (A) fifty dollars (\$50) if the total estimated cost for parts and labor is more than one hundred dollars (\$100) up to and including five hundred dollars (\$500), (B) one hundred dollars (\$100) if the total estimated cost for parts and labor exceeds five hundred dollars (\$500) up to and including one thousand five hundred dollars (\$1,500), and (C) one hundred fifty dollars (\$150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars (\$1,500). ~~No~~ An administrative charge ~~may~~ *shall not* be imposed if the total estimated cost of parts and labor is one hundred dollars (\$100) or less.

(d) (1) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle ~~may~~ *shall not* exceed the amount of the renter's liability under subdivision (c).

(2) A rental company ~~may~~ *shall not* recover from the renter or other authorized driver an amount exceeding the renter's liability under subdivision (c).

(3) A claim against a renter resulting from damage or loss, excluding loss of use, to a rental vehicle shall be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and ~~may~~ *shall not* assert or collect ~~any~~ a claim for physical damage which exceeds the actual costs of the repairs performed or the estimated cost of repairs, if the rental company chooses not to repair the vehicle, including all discounts and price reductions. However, if the vehicle is a total loss vehicle, the claim ~~may~~ *shall not* exceed the total loss vehicle value established in accordance with procedures that are customarily used by insurance companies when paying claims on total loss vehicles, less the proceeds from salvaging the vehicle, if those proceeds are retained by the rental company.

(4) If insurance coverage exists under the renter's applicable personal or business insurance policy and the coverage is confirmed during regular business hours, the renter may require that the rental company submit any claims to the renter's applicable personal or

1 business insurance carrier. The rental company ~~may~~ *shall* not make  
2 any written or oral representations that it will not present claims  
3 or negotiate with the renter's insurance carrier. For purposes of  
4 this paragraph, confirmation of coverage includes telephone  
5 confirmation from insurance company representatives during  
6 regular business hours. Upon request of the renter and after  
7 confirmation of coverage, the amount of claim shall be resolved  
8 between the insurance carrier and the rental company. The renter  
9 shall remain responsible for payment to the rental car company  
10 for any loss sustained that the renter's applicable personal or  
11 business insurance policy does not cover.

12 (5) A rental company ~~may~~ *shall* not recover from the renter or  
13 other authorized driver for ~~any~~ *an* item described in subdivision  
14 (b) to the extent the rental company obtains recovery from ~~any~~  
15 ~~other~~ *another* person.

16 (6) This section applies only to the maximum liability of a renter  
17 or other authorized driver to the rental company resulting from  
18 damage to the rented vehicle and not to the liability of ~~any other~~  
19 *another* person.

20 (e) (1) Except as provided in subdivision (f), ~~every~~ *a* damage  
21 waiver shall provide or, if not expressly stated in writing, shall be  
22 deemed to provide that the renter has no liability for ~~any~~ *a* damage,  
23 loss, loss of use, or ~~any~~ *a* cost or expense incident thereto.

24 (2) Except as provided in subdivision (f), every limitation,  
25 exception, or exclusion to ~~any~~ *a* damage waiver is void and  
26 unenforceable.

27 (f) A rental company may provide in the rental contract that a  
28 damage waiver does not apply under any of the following  
29 circumstances:

30 (1) Damage or loss results from an authorized driver's (A)  
31 intentional, willful, wanton, or reckless conduct, (B) operation of  
32 the vehicle under the influence of drugs or alcohol in violation of  
33 Section 23152 of the Vehicle Code, (C) towing or pushing  
34 anything, or (D) operation of the vehicle on an unpaved road if  
35 the damage or loss is a direct result of the road or driving  
36 conditions.

37 (2) Damage or loss occurs while the vehicle is (A) used for  
38 commercial hire, (B) used in connection with conduct that could  
39 be properly charged as a felony, (C) involved in a speed test or  
40 contest or in driver training activity, (D) operated by a person other

1 than an authorized driver, or (E) operated outside of the United  
2 States.

3 (3) ~~Any~~ An authorized driver who has (A) provided fraudulent  
4 information to the rental company, or (B) provided false  
5 information and the rental company would not have rented the  
6 vehicle if it had instead received true information.

7 (g) (1) A rental company that offers or provides a damage  
8 waiver for any consideration in addition to the rental rate shall  
9 clearly and conspicuously disclose the following information in  
10 the rental contract or holder in which the contract is placed and,  
11 also, in signs posted at the place, such as the counter, where the  
12 renter signs the rental contract, and, for renters who are enrolled  
13 in the rental company's membership program, in a sign ~~which~~ *that*  
14 shall be posted in a location clearly visible to those renters as they  
15 enter the location where their reserved rental cars are parked or  
16 near the exit of the bus or other conveyance that transports the  
17 enrollee to a reserved car: (A) the nature of the renter's liability,  
18 e.g., liability for all collision damage regardless of cause, (B) the  
19 extent of the renter's liability, e.g., liability for damage or loss up  
20 to a specified amount, (C) the renter's personal insurance policy  
21 or the credit card used to pay for the car rental transaction may  
22 provide coverage for all or a portion of the renter's potential  
23 liability, (D) the renter should consult with his or her insurer to  
24 determine the scope of insurance coverage, including the amount  
25 of the deductible, if any, for which the renter is obligated, (E) the  
26 renter may purchase an optional damage waiver to cover all  
27 liability, subject to whatever exceptions the rental company  
28 expressly lists that are permitted under subdivision (f), and (F) the  
29 range of charges for the damage waiver.

30 (2) In addition to the requirements of paragraph (1), a rental  
31 company that offers or provides a damage waiver shall, orally  
32 disclose to all renters, except those who are participants in the  
33 rental company's membership program, that the damage waiver  
34 may be duplicative of coverage that the customer maintains under  
35 his or her own policy of motor vehicle insurance. The renter's  
36 receipt of the oral disclosure shall be demonstrated through the  
37 ~~renter~~ *renter's* acknowledging receipt of the oral disclosure near  
38 that part of the contract where the renter indicates, by the renter's  
39 own initials, his or her acceptance or declination of the damage  
40 waiver. Adjacent to that same part, the contract *also* shall ~~also~~ state

1 that the damage waiver is optional. Further, the contract for these  
2 renters shall include a clear and conspicuous written disclosure  
3 that the damage waiver may be duplicative of coverage that the  
4 customer maintains under his or her own policy of motor vehicle  
5 insurance.

6 (3) The following is an example, for purposes of illustration  
7 and not limitation, of a notice fulfilling the requirements of  
8 paragraph (1) for a rental company that imposes liability on the  
9 renter for collision damage to the full value of the vehicle:

10  
11 NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY  
12 AND OPTIONAL DAMAGE WAIVER  
13

14 You are responsible for all collision damage to the rented vehicle  
15 even if someone else caused it or the cause is unknown. You are  
16 responsible for the cost of repair up to the value of the vehicle,  
17 and towing, storage, and impound fees.

18 Your own insurance, or the issuer of the credit card you use to  
19 pay for the car rental transaction, may cover all or part of your  
20 financial responsibility for the rented vehicle. You should check  
21 with your insurance company, or credit card issuer, to find out  
22 about your coverage and the amount of the deductible, if any, for  
23 which you may be liable.

24 Further, if you use a credit card that provides coverage for your  
25 potential liability, you should check with the issuer to determine  
26 if you must first exhaust the coverage limits of your own insurance  
27 before the credit card coverage applies.

28 The rental company will not hold you responsible if you buy a  
29 damage waiver. But a damage waiver will not protect you if (list  
30 exceptions).

31 (A) When the above notice is printed in the rental contract or  
32 holder in which the contract is placed, the following shall be printed  
33 immediately following the notice:

34 “The cost of an optional damage waiver is \$\_\_\_\_ for every (day  
35 or week).”

36 (B) When the above notice appears on a sign, the following  
37 shall appear immediately adjacent to the notice:

38 “The cost of an optional damage waiver is \$\_\_\_\_ to \$\_\_\_\_ for  
39 every (day or week), depending upon the vehicle rented.”

(h) Notwithstanding any other provision of law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver.

(1) For rental vehicles that the rental company designates as an “economy car,” “subcompact car,” “compact car,” or ~~any other~~ *another* term having similar meaning when offered for rental, or ~~any other another~~ vehicle having a manufacturer’s suggested retail price of nineteen thousand dollars (\$19,000) or less, the rate ~~may~~ *shall* not exceed nine dollars (\$9).

(2) For rental vehicles that have a manufacturer’s suggested retail price from nineteen thousand one dollars (\$19,001) to thirty-four thousand nine hundred ninety-nine dollars (\$34,999), inclusive, and that are also either vehicles of next year’s model, or not older than the previous year’s model, the rate may not exceed fifteen dollars (\$15). For those rental vehicles older than the previous year’s model year, the rate ~~may~~ *shall* not exceed nine dollars (\$9).

(i) On or after January 1, 2003, the manufacturer’s suggested retail prices described in subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, “Consumer Price Index” means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company ~~may~~ *shall* not require the purchase of a damage waiver, optional insurance, or ~~any other~~ *another* optional good or service.

(2) A rental company ~~may~~ *shall* not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or ~~any other~~ *another* optional good or service, including conduct such as, but not limited to, refusing to honor the renter’s reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter’s credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or ~~any other~~ *another* optional good or service.



(l) (1) In the absence of express permission granted by the renter subsequent to damage to, or loss of, the vehicle, a rental company ~~may~~ *shall* not seek to recover any portion of ~~any~~ *a* claim arising out of damage to, or loss of, the rented vehicle by processing a credit card charge or causing ~~any~~ *a* debit or block to be placed on the renter's credit card account.

(2) A rental company ~~may~~ *shall* not engage in any unfair, deceptive, or coercive tactics in attempting to recover or in recovering on any claim arising out of damage to, or loss of, the rented vehicle.

(m) (1) A customer facility charge may be collected by a rental company under the following circumstances:

(A) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, or a special district.

(B) The fee is calculated on a per-contract basis.

(C) The fee is a user fee, not a tax imposed upon real property or an incidence of property ownership under Article XIII D of the California Constitution.

(D) Except as otherwise provided in subparagraph (E), the fee shall be ten dollars (\$10) per contract.

(E) If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars (\$10), but the fee imposed on customers of off-airport rental car companies who are transported on the common-use transportation system is proportionate to the costs of the common-use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers, provided the airport requires off-airport customers to use the common-use transportation system.

(F) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, constructing, or operating the facility or services and ~~may~~ *shall* not be used for any other purpose.

(G) The fee is separately identified on the rental agreement.

(H) This paragraph does not apply to airports ~~whose~~ *the fees of which* are governed by Section 50474.1 of the Government Code or Section 57.5 of the San Diego Unified Port District Act.

(2) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7

1 (commencing with Section 7280), inclusive, of Division 2 of the  
2 Revenue and Taxation Code, the fees collected pursuant to this  
3 section, or ~~any other~~ *another* law whereby a local agency operating  
4 an airport requires a rental car company to collect a facility  
5 financing fee from its customers, are not subject to sales, use, or  
6 transaction taxes.

7 (n) (1) A rental company shall only advertise, quote, and charge  
8 a rental rate that includes the entire amount except taxes, a  
9 customer facility charge, if any, and a mileage charge, if any, which  
10 a renter must pay to hire or lease the vehicle for the period of time  
11 to which the rental rate applies. A rental company ~~may~~ *shall* not  
12 charge in addition to the rental rate, taxes, a customer facility  
13 charge, if any, and a mileage charge, if any, any fee ~~which must~~  
14 *that is required to* be paid by the renter as a condition of hiring or  
15 leasing the vehicle, ~~such as~~ *including*, but not limited to, required  
16 fuel or airport surcharges other than customer facility charges, nor  
17 ~~any~~ a fee for transporting the renter to the location where the rented  
18 vehicle will be delivered to the renter.

19 (2) In addition to the rental rate, taxes, customer facility charges,  
20 if any, and mileage charges, if any, a rental company may charge  
21 for an item or service provided in connection with a particular  
22 rental transaction if the renter could have avoided incurring the  
23 charge by choosing not to obtain or utilize the optional item or  
24 service. Items and services for which the rental company may  
25 impose an additional charge, include, but are not limited to,  
26 optional insurance and accessories requested by the renter, service  
27 charges incident to the renter's optional return of the vehicle to a  
28 location other than the location where the vehicle was hired or  
29 leased, and charges for refueling the vehicle at the conclusion of  
30 the rental transaction in the event the renter did not return the  
31 vehicle with as much fuel as was in the fuel tank at the beginning  
32 of the rental. A rental company also may impose an additional  
33 charge based on reasonable age criteria established by the rental  
34 company.

35 (3) A rental company ~~may~~ *shall* not charge ~~any~~ a fee for  
36 authorized drivers in addition to the rental charge for an individual  
37 renter.

38 (4) If a rental company states a rental rate in print advertisement  
39 or in a telephonic, in-person, or computer-transmitted quotation,  
40 the rental company shall ~~clearly~~ *disclose clearly* in that

1 advertisement or quotation the terms of ~~any~~ mileage conditions  
2 relating to the advertised or quoted rental rate, including, but not  
3 limited to, to the extent applicable, the amount of mileage and gas  
4 charges, the number of miles for which no charges will be imposed,  
5 and a description of geographic driving limitations within the  
6 United States and Canada.

7 (5) (A) When a rental rate is stated in an advertisement,  
8 quotation, or reservation in connection with a car rental at an airport  
9 where a customer facility charge is imposed, the rental company  
10 shall ~~clearly~~ disclose *clearly* the existence and amount of the  
11 customer facility charge. For ~~the~~ purposes of this subparagraph,  
12 advertisements include radio, television, other electronic media,  
13 and print advertisements. For purposes of this subparagraph,  
14 quotations and reservations include those that are telephonic,  
15 in-person, and computer-transmitted. If the rate advertisement is  
16 intended to include transactions at more than one airport imposing  
17 a customer facility charge, a range of fees may be stated in the  
18 advertisement. However, all rate advertisements that include car  
19 rentals at airport destinations shall clearly and conspicuously  
20 include a toll-free telephone number whereby a customer can be  
21 told the specific amount of the customer facility charge to which  
22 the customer will be obligated.

23 (B) If ~~any~~ a person or entity other than a rental car company,  
24 including a passenger carrier or a seller of travel services, advertises  
25 or quotes a rate for a car rental at an airport where a customer  
26 facility charge is imposed, that person or entity shall, provided  
27 ~~they are that he, she, or it is~~ provided with information about the  
28 existence and amount of the fee, to the extent not specifically  
29 prohibited by federal law, clearly disclose the existence and amount  
30 of the fee in any telephonic, in-person, or computer-transmitted  
31 quotation at the time of making an initial quotation of a rental rate  
32 and at the time of making a reservation of a rental car. If a rental  
33 car company provides the person or entity with rate and customer  
34 facility charge information, the rental car company is not  
35 responsible for the failure of that person or entity to comply with  
36 this subparagraph when quoting or confirming a rate to a third  
37 person or entity.

38 (6) If a rental company delivers a vehicle to a renter at a location  
39 other than the location where the rental company normally carries  
40 on its business, the rental company ~~may~~ *shall* not charge the renter

1 ~~any~~ *an* amount for the rental for the period before the delivery of  
2 the vehicle. If a rental company picks up a rented vehicle from a  
3 renter at a location other than the location where the rental company  
4 normally carries on its business, the rental company ~~may~~ *shall* not  
5 charge the renter ~~any~~ *an* amount for the rental for the period after  
6 the renter notifies the rental company to pick up the vehicle.

7 (o) A rental company ~~may~~ *shall* not use, access, or obtain any  
8 information relating to the renter's use of the rental vehicle that  
9 was obtained using electronic surveillance technology, except in  
10 the following circumstances:

11 (1) (A) When the equipment is used by the rental company  
12 only for the purpose of locating a stolen, abandoned, or missing  
13 rental vehicle after one of the following:

14 (i) The renter or law enforcement has informed the rental  
15 company that the vehicle has been stolen, abandoned, or missing.

16 (ii) The rental vehicle has not been returned following one week  
17 after the contracted return date, or by one week following the end  
18 of an extension of that return date.

19 (iii) The rental company discovers the rental vehicle has been  
20 stolen or abandoned, and, if stolen, it shall report the vehicle stolen  
21 to law enforcement by filing a stolen vehicle report, unless law  
22 enforcement has already informed the rental company that the  
23 vehicle has been stolen, abandoned, or is missing.

24 (B) If electronic surveillance technology is activated pursuant  
25 to subparagraph (A) of paragraph (1), a rental company shall  
26 maintain a record, in either electronic or written form, of  
27 information relevant to the activation of that technology. That  
28 information shall include the rental agreement, including the return  
29 date, and the date and time the electronic surveillance technology  
30 was activated. The record shall also include, if relevant, a record  
31 of ~~any~~ written or other communication with the renter, including  
32 communications regarding extensions of the rental, police reports,  
33 or other written communication with law enforcement officials.  
34 The record shall be maintained for a period of at least 12 months  
35 from the time the record is created and shall be made available  
36 upon the renter's request. The rental company shall maintain and  
37 furnish ~~any~~ explanatory codes necessary to read the record. A  
38 rental company shall not be required to maintain a record if  
39 electronic surveillance technology is activated to recover a rental

1 vehicle that is stolen or missing at a time other than during a rental  
2 period.

3 (2) In response to a specific request from law enforcement  
4 pursuant to a subpoena or search warrant.

5 (3) ~~Nothing in this subdivision prohibits~~ *This subdivision does*  
6 *not prohibit* a rental company from equipping rental vehicles with  
7 ~~GPS-based~~ *GPS-based* technology that provides navigation  
8 assistance to the occupants of the rental vehicle, if the rental  
9 company does not use, access, or obtain ~~any~~ information relating  
10 to the renter's use of the rental vehicle that was obtained using  
11 that technology, except for the purposes of discovering or repairing  
12 a defect in the technology and the information may then be used  
13 only for that purpose.

14 (4) ~~Nothing in this subdivision prohibits~~ *This subdivision does*  
15 *not prohibit* a rental company from equipping rental vehicles with  
16 electronic surveillance technology that allows for the remote  
17 locking or unlocking of the vehicle at the request of the renter, if  
18 the rental company does not use, access, or obtain ~~any~~ information  
19 relating to the renter's use of the rental vehicle that was obtained  
20 using that technology, except as necessary to lock or unlock the  
21 vehicle.

22 (5) ~~Nothing in this subdivision prohibits~~ *This subdivision does*  
23 *not prohibit* a rental company from equipping rental vehicles with  
24 electronic surveillance technology that allows the company to  
25 provide roadside assistance, such as towing, flat tire, or fuel  
26 services, at the request of the renter, if the rental company does  
27 not use, access, or obtain ~~any~~ information relating to the renter's  
28 use of the rental vehicle that was obtained using that technology  
29 except as necessary to provide the requested roadside assistance.

30 (6) ~~Nothing in this subdivision prohibits~~ *This subdivision does*  
31 *not prohibit* a rental company from obtaining, accessing, or using  
32 information from electronic surveillance technology for the sole  
33 purpose of determining the date and time the vehicle is returned  
34 to the rental company, and the total mileage driven and the vehicle  
35 fuel level of the returned vehicle. This paragraph, however, shall  
36 apply only after the renter has returned the vehicle to the rental  
37 company, and the information shall only be used for the purpose  
38 described in this paragraph.

1 (p) A rental company ~~may~~ *shall* not use electronic surveillance  
2 technology to track a renter in order to impose fines or surcharges  
3 relating to the renter's use of the rental vehicle.

4 (q) A renter may bring an action against a rental company for  
5 the recovery of damages and appropriate equitable relief for a  
6 violation of this section. The prevailing party shall be entitled to  
7 recover reasonable attorney's fees and costs.

8 (r) A rental company that brings an action against a renter for  
9 loss due to theft of the vehicle shall bring the action in the county  
10 in which the renter resides or, if the renter is not a resident of this  
11 state, in the jurisdiction in which the renter resides.

12 (s) ~~Any~~ A waiver of any of the provisions of this section shall  
13 be void and unenforceable as contrary to public policy.

14 (t) (1) A rental company's disclosure requirements shall be  
15 satisfied for renters who are enrolled in the rental company's  
16 membership program if all of the following conditions are met:

17 (A) Prior to the enrollee's first rental as a participant in the  
18 program, the renter receives, in writing, the following:

19 (i) All of the disclosures required by paragraph (1) of subdivision  
20 (g), including the terms and conditions of the rental agreement  
21 then in effect.

22 (ii) ~~A~~ An Internet Web site address, as well as a contact number  
23 or address, where the enrollee can learn of ~~any~~ changes to the rental  
24 agreement or to the laws of this state governing rental agreements  
25 since the effective date of the rental company's most recent  
26 restatement of the rental agreement and distribution of that  
27 restatement to its members.

28 (B) At the commencement of each rental period, the renter is  
29 provided, on the rental record or the folder in which it is inserted,  
30 with a printed notice stating that he or she had either previously  
31 selected or declined an optional damage waiver and that the renter  
32 has the right to change preferences.

33 (C) At the commencement of each rental period, the rental  
34 company provides, on the rearview mirror, a hanger on which a  
35 statement is printed, in a box, in at least 12-point boldface type,  
36 notifying the renter that the collision damage waiver offered by  
37 the rental company may be duplicative of coverage that the  
38 customer maintains under his or her own policy of motor vehicle  
39 insurance. If it is not feasible to hang the statement from the  
40 rearview mirror, it shall be hung from the steering wheel.

1 The hanger shall provide the renter a box to initial if he or she  
2 (not his or her employer) has previously accepted or declined the  
3 collision damage waiver and that he or she now wishes to change  
4 his or her decision to accept or decline the collision damage waiver,  
5 as follows:

6 “☐ If I previously accepted the collision damage waiver, I  
7 now decline it.

8 ☐ If I previously declined the collision damage waiver, I now  
9 accept it.”

10 The hanger shall also provide a box for the enrollee to indicate  
11 whether this change applies to this rental transaction only or to all  
12 future rental transactions. The hanger shall also notify the renter  
13 that he or she may make that change, prior to leaving the lot, by  
14 returning the form to an employee designated to receive the form  
15 who is present at the lot where the renter takes possession of the  
16 car, to receive any change in the rental agreement from the renter.

17 (2) (A) This subdivision is not effective unless the employee  
18 designated pursuant to subparagraph (E) of paragraph (8) of  
19 subdivision (a) is actually present at the required location.

20 (B) This subdivision does not relieve the rental company from  
21 ~~those~~ *the* disclosures ~~that are~~ required to be made within the text  
22 of a contract or holder in which the contract is placed; in or on an  
23 advertisement containing a rental rate; or in a telephonic, in-person,  
24 or computer-transmitted quotation or reservation.

25 (u) The amendments made to this section during the 2001–02  
26 Regular Session of the Legislature do not affect litigation pending  
27 on or before January 1, 2003, alleging a violation of Section 22325  
28 of the Business and Professions Code as it read at the time the  
29 action was commenced.

30 SEC. 33. Section 1951.7 of the Civil Code is amended to read:

31 1951.7. (a) As used in this section, “advance payment” means  
32 moneys paid to the lessor of real property as prepayment of rent,  
33 or as a deposit to secure faithful performance of the terms of the  
34 lease, ~~or any other payment which~~ *another payment that* is the  
35 substantial equivalent of either of these. A payment that is not in  
36 excess of the amount of one month’s rent is not an advance  
37 payment ~~for the~~ purposes of this section.

38 (b) The notice provided by subdivision (c) is required to be  
39 given only if *all of the following apply*:

40 (1) The lessee has made an advance payment;

1 (2) The lease is terminated pursuant to Section 1951.2; ~~and.~~

2 (3) The lessee has made a request, in writing, to the lessor that  
3 he *or she* be given notice under subdivision (c).

4 (c) Upon the initial reletting of the property, the lessor shall  
5 send a written notice to the lessee stating that the property has been  
6 relet, the name and address of the new lessee, and the length of  
7 the new lease and the amount of the rent. The notice shall be  
8 delivered to the lessee personally, or be sent by regular mail to the  
9 lessee at the address shown on the request, not later than 30 days  
10 after the new lessee takes possession of the property. ~~No notice is~~  
11 *Notice is not* required if the amount of the rent due and unpaid at  
12 the time of termination exceeds the amount of the advance  
13 payment.

14 SEC. 34. Section 2938 of the Civil Code is amended to read:

15 2938. (a) A written assignment of an interest in leases, rents,  
16 issues, or profits of real property made in connection with an  
17 obligation secured by real property, irrespective of whether the  
18 assignment is denoted as absolute, absolute conditioned upon  
19 default, additional security for an obligation, or otherwise, shall,  
20 upon execution and delivery by the assignor, be effective to create  
21 a present security interest in existing and future leases, rents, issues,  
22 or profits of that real property. As used in this section, “leases,  
23 rents, issues, and profits of real property” ~~include~~ *includes* the cash  
24 proceeds thereof. ~~The term “cash~~ “Cash proceeds” means cash,  
25 checks, deposit accounts, and the like.

26 (b) An assignment of an interest in leases, rents, issues, or profits  
27 of real property may be recorded in the records of the county  
28 recorder in *the county in* which the underlying real property is  
29 located in the same manner as any other conveyance of an interest  
30 in real property, whether the assignment is in a separate document  
31 or part of a mortgage or deed of trust, and when so duly recorded  
32 in accordance with the methods, procedures, and requirements for  
33 recordation of conveyances of other interests in real property, (1)  
34 the assignment shall be deemed to give constructive notice of the  
35 content of the assignment with the same force and effect as any  
36 other duly recorded conveyance of an interest in real property and  
37 (2) the interest granted by the assignment shall be deemed fully  
38 perfected as of the time of recordation with the same force and  
39 effect as any other duly recorded conveyance of an interest in real  
40 property, notwithstanding ~~any~~ a provision of the assignment or



1 ~~any~~ a provision of law that would otherwise preclude or defer  
2 enforcement of the rights granted the assignee under the assignment  
3 until the occurrence of a subsequent event, including, but not  
4 limited to, a subsequent default of the assignor, or the assignee's  
5 obtaining possession of the real property or the appointment of a  
6 receiver.

7 (c) Upon default of the assignor under the obligation secured  
8 by the assignment of leases, rents, issues, and profits, the assignee  
9 shall be entitled to enforce the assignment in accordance with this  
10 section. On and after the date the assignee takes one or more of  
11 the enforcement steps described in this subdivision, the assignee  
12 shall be entitled to collect and receive all rents, issues, and profits  
13 that have accrued but remain unpaid and uncollected by the  
14 assignor or its agent or for the assignor's benefit on that date, and  
15 all rents, issues, and profits that accrue on or after the date. The  
16 assignment shall be enforced by one or more of the following:

17 (1) The appointment of a receiver.

18 (2) Obtaining possession of the rents, issues, or profits.

19 (3) Delivery to any one or more of the tenants of a written  
20 demand for turnover of rents, issues, and profits in the form  
21 specified in subdivision ~~(j)~~ (k), a copy of which demand shall also  
22 be delivered to the assignor; and a copy of which shall be mailed  
23 to all other assignees of record of the leases, rents, issues, and  
24 profits of the real property at the address for notices provided in  
25 the assignment or, if none, to the address to which the recorded  
26 assignment was to be mailed after recording.

27 (4) Delivery to the assignor of a written demand for the rents,  
28 issues, or profits, a copy of which shall be mailed to all other  
29 assignees of record of the leases, rents, issues, and profits of the  
30 real property at the address for notices provided in the assignment  
31 or, if none, to the address to which the recorded assignment was  
32 to be mailed after recording.

33 Moneys received by the assignee pursuant to this subdivision,  
34 net of amounts paid pursuant to subdivision (g), if any, shall be  
35 applied by the assignee to the debt or otherwise in accordance with  
36 the assignment or the promissory note, deed of trust, or other  
37 instrument evidencing the obligation; provided, however, that  
38 neither the application nor the failure to so apply the rents, issues,  
39 or profits shall result in a loss of any lien or security interest ~~which~~  
40 *that* the assignee may have in the underlying real property or any

1 other collateral, render the obligation unenforceable, constitute a  
2 violation of Section 726 of the Code of Civil Procedure, or  
3 otherwise limit ~~any~~ a right available to the assignee with respect  
4 to its security.

5 (d) If an assignee elects to take the action provided for under  
6 paragraph (3) of subdivision (c), the demand provided for therein  
7 shall be signed under penalty of perjury by the assignee or an  
8 authorized agent of the assignee and shall be effective as against  
9 the tenant when actually received by the tenant at the address for  
10 notices provided under the lease or other contractual agreement  
11 under which the tenant occupies the property or, if no address for  
12 notices is so provided, at the property. Upon receipt of this demand,  
13 the tenant shall be obligated to pay to the assignee all rents, issues,  
14 and profits that are past due and payable on the date of receipt of  
15 the demand, and all rents, issues, and profits coming due under  
16 the lease following the date of receipt of the demand, unless either  
17 of the following occurs:

18 (1) The tenant has previously received a demand ~~which~~ that is  
19 valid on its face from another assignee of the leases, issues, rents,  
20 and profits sent by the other assignee in accordance with this  
21 subdivision and subdivision (c).

22 (2) The tenant, in good faith and in a manner ~~which~~ that is not  
23 inconsistent with the lease, has previously paid, or within 10 days  
24 following receipt of the demand notice pays, the rent to the  
25 assignor.

26 Payment of rent to an assignee following a demand under an  
27 assignment of leases, rents, issues, and profits shall satisfy the  
28 tenant's obligation to pay the amounts under the lease. If a tenant  
29 pays rent to the assignor after receipt of a demand other than under  
30 the circumstances described in this subdivision, the tenant shall  
31 not be discharged of the obligation to pay rent to the assignee,  
32 unless the tenant occupies the property for residential purposes.  
33 The obligation of a tenant to pay rent pursuant to this subdivision  
34 and subdivision (c) shall continue until receipt by the tenant of a  
35 written notice from a court directing the tenant to pay the rent in  
36 a different manner or receipt by the tenant of a written notice from  
37 the assignee from whom the demand was received canceling the  
38 demand, whichever occurs first. ~~Nothing in this subdivision shall~~  
39 *This subdivision does not* affect the entitlement to rents, issues, or  
40 profits as between assignees as set forth in subdivision (h).

1 (e) ~~No~~*An* enforcement action of the type authorized by  
2 subdivision (c), and ~~no~~*a* collection, distribution, or application of  
3 rents, issues, or profits by the assignee following an enforcement  
4 action of the type authorized by subdivision (c), shall *not* do any  
5 of the following:

6 (1) Make the assignee a mortgagee in possession of the property,  
7 except if the assignee obtains actual possession of the real property,  
8 or an agent of the assignor.

9 (2) Constitute an action, render the obligation unenforceable,  
10 violate Section 726 of the Code of Civil Procedure, or, other than  
11 with respect to marshaling requirements, otherwise limit any rights  
12 available to the assignee with respect to its security.

13 (3) Be deemed to create ~~any~~*a* bar to a deficiency judgment  
14 pursuant to ~~any~~*a* provision of law governing or relating to  
15 deficiency judgments following the enforcement of any  
16 encumbrance, lien, or security interest, notwithstanding that the  
17 action, collection, distribution, or application may reduce the  
18 indebtedness secured by the assignment or by ~~any~~*a* deed of trust  
19 or other security instrument.

20 The application of rents, issues, or profits to the secured  
21 obligation shall satisfy the secured obligation to the extent of those  
22 rents, issues, or profits, and, notwithstanding any provisions of the  
23 assignment or other loan documents to the contrary, shall be  
24 credited against any amounts necessary to cure any monetary  
25 default for purposes of reinstatement under Section 2924c.

26 (f) If cash proceeds of rents, issues, or profits to which the  
27 assignee is entitled following enforcement as set forth in  
28 subdivision (c) are received by the assignor or its agent for  
29 collection or by ~~any other~~*another* person who has collected such  
30 rents, issues, or profits for the assignor's benefit, or for the benefit  
31 of ~~any~~*a* subsequent assignee under the circumstances described  
32 in subdivision (h), following the taking by the assignee of either  
33 of the enforcement actions authorized in paragraph (3) or (4) of  
34 subdivision (c), and the assignee has not authorized the assignor's  
35 disposition of the cash proceeds in a writing signed by the assignee,  
36 the rights to the cash proceeds and to the recovery of the cash  
37 proceeds shall be determined by the following:

38 (1) The assignee shall be entitled to an immediate turnover of  
39 the cash proceeds received by the assignor or its agent for collection  
40 or any other person who has collected the rents, issues, or profits

1 for the assignor's benefit, or for the benefit of ~~any~~ a subsequent  
2 assignee under the circumstances described in subdivision (h), and  
3 the assignor or other described party in possession of ~~such~~ those  
4 cash proceeds shall turn over the full amount of cash proceeds to  
5 the assignee, less any amount representing payment of expenses  
6 authorized by the assignee in writing. The assignee shall have a  
7 right to bring an action for recovery of the cash proceeds, and to  
8 recover the cash proceeds, without the necessity of bringing an  
9 action to foreclose ~~any~~ a security interest ~~which~~ that it may have  
10 in the real property. This action shall not violate Section 726 of  
11 the Code of Civil Procedure or otherwise limit ~~any~~ a right available  
12 to the assignee with respect to its security.

13 (2) As between an assignee with an interest in cash proceeds  
14 perfected in the manner set forth in subdivision (b) and enforced  
15 in accordance with paragraph (3) or (4) of subdivision (c) and ~~any~~  
16 ~~other~~ another person claiming an interest in the cash proceeds,  
17 other than the assignor or its agent for collection or one collecting  
18 rents, issues, and profits for the benefit of the assignor, and subject  
19 to subdivision (h), the assignee shall have a continuously perfected  
20 security interest in the cash proceeds to the extent that the cash  
21 proceeds are identifiable. For purposes hereof, cash proceeds are  
22 identifiable if they are either (A) segregated or (B) if commingled  
23 with other funds of the assignor or its agent or one acting on its  
24 behalf, can be traced using the lowest intermediate balance  
25 principle, unless the assignor or other party claiming an interest  
26 in proceeds shows that some other method of tracing would better  
27 serve the interests of justice and equity under the circumstances  
28 of the case. The provisions of this paragraph are subject to any  
29 generally applicable law with respect to payments made in the  
30 operation of the assignor's business.

31 (g) (1) If the assignee enforces the assignment under subdivision  
32 (c) by ~~any~~ means other than the appointment of a receiver and  
33 receives rents, issues, or profits pursuant to this enforcement, the  
34 assignor or ~~any other~~ another assignee of the affected real property  
35 may make written demand upon the assignee to pay the reasonable  
36 costs of protecting and preserving the property, including payment  
37 of taxes and insurance and compliance with building and housing  
38 codes, if any.

39 (2) On and after the date of receipt of the demand, the assignee  
40 shall pay for the reasonable costs of protecting and preserving the

1 real property to the extent of any rents, issues, or profits actually  
2 received by the assignee, provided, however, that no such acts by  
3 the assignee shall cause the assignee to become a mortgagee in  
4 possession and the assignee's duties under this subdivision, upon  
5 receipt of a demand from the assignor or any other assignee of the  
6 leases, rents, issues, and profits pursuant to paragraph (1), shall  
7 not be construed to require the assignee to operate or manage the  
8 property, which obligation shall remain that of the assignor.

9 (3) The obligation of the assignee hereunder shall continue until  
10 the earlier of (A) the date on which the assignee obtains the  
11 appointment of a receiver for the real property pursuant to  
12 application to a court of competent jurisdiction, or (B) the date on  
13 which the assignee ceases to enforce the assignment.

14 (4) ~~Nothing in this subdivision shall be construed to~~ This  
15 *subdivision does not* supersede or diminish the right of the assignee  
16 to the appointment of a receiver.

17 (h) The lien priorities, rights, and interests among creditors  
18 concerning rents, issues, or profits collected before the enforcement  
19 by the assignee shall be governed by subdivisions (a) and (b).  
20 Without limiting the generality of the foregoing, if an assignee  
21 who has recorded its interest in leases, rents, issues, and profits  
22 prior to the recordation of ~~such~~ *that* interest by a subsequent  
23 assignee seeks to enforce its interest in those rents, issues, or profits  
24 in accordance with this section after any enforcement action has  
25 been taken by a subsequent assignee, the prior assignee shall be  
26 entitled only to the rents, issues, and profits that are accrued and  
27 unpaid as of the date of its enforcement action and unpaid rents,  
28 issues, and profits accruing thereafter. The prior assignee shall  
29 have no right to rents, issues, or profits paid prior to the date of  
30 the enforcement action, whether in the hands of the assignor or  
31 any subsequent assignee. Upon receipt of notice that the prior  
32 assignee has enforced its interest in the rents, issues, and profits,  
33 the subsequent assignee shall immediately send a notice to any  
34 tenant to whom it has given notice under subdivision (c). The  
35 notice shall inform the tenant that the subsequent assignee cancels  
36 its demand that the tenant pay rent to the subsequent assignee.

37 (i) (1) This section shall apply to contracts entered into on or  
38 after January 1, 1997.

39 (2) Sections 2938 and 2938.1, as these sections were in effect  
40 prior to January 1, 1997, shall govern contracts entered into prior

1 to January 1, 1997, and shall govern actions and proceedings  
2 initiated on the basis of these contracts.

3 (j) “Real property,” as used in this section, ~~shall mean~~ means  
4 real property or any estate or interest therein.

5 (k) The demand required by paragraph (3) of subdivision (c)  
6 shall be in the following form:

7  
8 DEMAND TO PAY RENT TO  
9 PARTY OTHER THAN LANDLORD  
10 (SECTION 2938 OF THE CIVIL CODE)  
11

12 Tenant: [Name of Tenant]  
13

14 Property Occupied by Tenant: [Address]  
15

16 Landlord: [Name of Landlord]  
17

18 Secured Party: [Name of Secured Party]  
19

20 Address: [Address for Payment of Rent to Secured Party and for  
21 Further Information]:  
22

23 The secured party named above is the assignee of leases, rents,  
24 issues, and profits under [name of document] dated \_\_\_\_\_, and  
25 recorded at [recording information] in the official records of  
26 \_\_\_\_\_ County, California. You may request a copy of ~~such~~  
27 the assignment from the secured party at \_\_\_\_\_ (address).  
28

29 THIS NOTICE AFFECTS YOUR LEASE OR RENTAL  
30 AGREEMENT RIGHTS AND OBLIGATIONS. YOU ARE  
31 THEREFORE ADVISED TO CONSULT AN ATTORNEY  
32 CONCERNING THOSE RIGHTS AND OBLIGATIONS IF YOU  
33 HAVE ANY QUESTIONS REGARDING YOUR RIGHTS AND  
34 OBLIGATIONS UNDER THIS NOTICE.  
35

36 IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION  
37 2938 OF THE CIVIL CODE, YOU ARE HEREBY DIRECTED  
38 TO PAY TO THE SECURED PARTY, \_\_\_\_\_ (NAME OF  
39 SECURED PARTY) AT \_\_\_\_\_ (ADDRESS), ALL RENTS UNDER  
40 YOUR LEASE OR OTHER RENTAL AGREEMENT WITH

1 THE LANDLORD OR PREDECESSOR IN INTEREST OF  
2 LANDLORD, FOR THE OCCUPANCY OF THE PROPERTY  
3 AT \_\_\_\_ (ADDRESS OF RENTAL PREMISES) WHICH ARE  
4 PAST DUE AND PAYABLE ON THE DATE YOU RECEIVE  
5 THIS DEMAND, AND ALL RENTS COMING DUE UNDER  
6 THE LEASE OR OTHER RENTAL AGREEMENT  
7 FOLLOWING THE DATE YOU RECEIVE THIS DEMAND  
8 UNLESS YOU HAVE ALREADY PAID THIS RENT TO THE  
9 LANDLORD IN GOOD FAITH AND IN A MANNER NOT  
10 INCONSISTENT WITH THE AGREEMENT BETWEEN YOU  
11 AND THE LANDLORD. IN THIS CASE, THIS DEMAND  
12 NOTICE SHALL REQUIRE YOU TO PAY TO THE SECURED  
13 PARTY, \_\_\_\_; (NAME OF THE SECURED PARTY), ALL  
14 RENTS THAT COME DUE FOLLOWING THE DATE OF THE  
15 PAYMENT TO THE LANDLORD.

16  
17 IF YOU PAY THE RENT TO THE UNDERSIGNED SECURED  
18 PARTY, \_\_\_\_ (NAME OF SECURED PARTY), IN  
19 ACCORDANCE WITH THIS NOTICE, YOU DO NOT HAVE  
20 TO PAY THE RENT TO THE LANDLORD. YOU WILL NOT  
21 BE SUBJECT TO DAMAGES OR OBLIGATED TO PAY RENT  
22 TO THE SECURED PARTY IF YOU HAVE PREVIOUSLY  
23 RECEIVED A DEMAND OF THIS TYPE FROM A DIFFERENT  
24 SECURED PARTY.

25  
26 [For other than residential tenants]: IF YOU PAY ~~ANY~~ RENT  
27 TO THE LANDLORD THAT BY THE TERMS OF THIS  
28 DEMAND YOU ARE REQUIRED TO PAY TO THE SECURED  
29 PARTY, YOU MAY BE SUBJECT TO DAMAGES INCURRED  
30 BY THE SECURED PARTY BY REASON OF YOUR FAILURE  
31 TO COMPLY WITH THIS DEMAND, AND YOU MAY NOT  
32 BE DISCHARGED FROM YOUR OBLIGATION TO PAY  
33 ~~SUCH THAT~~ RENT TO THE SECURED PARTY. YOU WILL  
34 NOT BE SUBJECT TO ~~SUCH THOSE~~ DAMAGES OR  
35 OBLIGATED TO PAY ~~SUCH THAT~~ RENT TO THE SECURED  
36 PARTY IF YOU HAVE PREVIOUSLY RECEIVED A DEMAND  
37 OF THIS TYPE FROM A DIFFERENT ASSIGNEE.

38  
39 Your obligation to pay rent under this demand shall continue until  
40 you receive either (1) a written notice from a court directing you

1 to pay the rent in a manner provided therein, or (2) a written notice  
2 from the secured party named above canceling this demand.

3  
4 The undersigned hereby certifies, under penalty of perjury, that  
5 the undersigned is an authorized officer or agent of the secured  
6 party and that the secured party is the assignee, or the current  
7 successor to the assignee, under an assignment of leases, rents,  
8 issues, or profits executed by the landlord, or a predecessor in  
9 interest, that is being enforced pursuant to and in accordance with  
10 Section 2938 of the Civil Code.

11  
12 Executed at \_\_\_\_\_, California, this \_\_\_\_ day of \_\_\_\_\_,  
13 \_\_\_\_\_.

14  
15 [Secured Party]

16 Name: \_\_\_\_\_

17  
18 Title: \_\_\_\_\_

19  
20 SEC. 35. Section 340.7 of the Code of Civil Procedure is  
21 amended to read:

22 340.7. (a) Notwithstanding Section 335.1, ~~any~~ a civil action  
23 brought by, or on behalf of, ~~any~~ a Dalkon Shield victim against  
24 the Dalkon Shield Claimants' Trust, shall be brought in accordance  
25 with the procedures established by A.H. Robins Company, Inc.  
26 Plan of Reorganization, and shall be brought within 15 years of  
27 the date on which the victim's injury occurred, except that the  
28 statute shall be tolled from August 21, 1985, the date on which the  
29 A.H. Robins Company filed for Chapter 11 Reorganization in  
30 Richmond, Virginia.

31 (b) This section applies regardless of when ~~any such~~ the action  
32 or claim shall have accrued or been filed and regardless of whether  
33 it might have lapsed or otherwise be barred by time under  
34 California law. However, this section shall only apply to victims  
35 who, prior to January 1, 1990, filed a civil action, a timely claim,  
36 or a claim ~~which~~ that is declared to be timely under the sixth  
37 Amended and Restated Disclosure Statement filed pursuant to  
38 Section 1125 of the Federal Bankruptcy Code in re: A.H. Robins  
39 Company, Inc., dated March 28, 1988, U.S. Bankruptcy Court,  
40 Eastern District of Virginia (Case (case number 85-01307-R).



1 SEC. 36. Section 486.050 of the Code of Civil Procedure is  
2 amended to read:

3 486.050. (a) Except as otherwise provided in Section 486.040,  
4 the temporary protective order may prohibit ~~any~~ a transfer by the  
5 defendant of any of the defendant's property in this state subject  
6 to the levy of the writ of attachment. The temporary protective  
7 order shall describe the property in a manner adequate to permit  
8 the defendant to identify the property subject to the temporary  
9 protective order.

10 (b) Notwithstanding ~~subdivison~~ *subdivision* (a), if the property  
11 is farm products held for sale or is inventory, the temporary  
12 protective order ~~may~~ *shall* not prohibit the defendant from  
13 transferring the property in the ordinary course of business, but  
14 the temporary protective order may impose appropriate restrictions  
15 on the disposition of the proceeds from ~~such~~ *that type of* transfer.

16 SEC. 37. Section 9526.5 of the Commercial Code is amended  
17 to read:

18 9526.5. (a) For purposes of this section, the following terms  
19 have the following meanings:

20 (1) "Official filing" means the permanent archival filing of all  
21 instruments, papers, records, and attachments as accepted for filing  
22 by a filing office.

23 (2) "Public filing" means a filing that is an exact copy of an  
24 official filing except that any social security number contained in  
25 the copied filing is truncated. The public filing shall have the same  
26 legal force and effect as the official filing.

27 (3) "Truncate" means to redact at least the first five digits of a  
28 social security number.

29 (4) "Truncated social security number" means a social security  
30 number that displays no more than the last four digits of the  
31 number.

32 (b) For every filing containing an untruncated social security  
33 number filed before August 1, 2007, a filing office shall create a  
34 public filing.

35 (c) A filing office shall post a notice on its *Internet* Web site  
36 informing filers not to include social security numbers in any  
37 portion of their filings. A filing office's online filing system shall  
38 not contain a field requesting a social security number.

39 (d) Beginning August 1, 2007, for every filing containing an  
40 untruncated social security number filed by means other than the

1 filing office's *Internet* Web site, a filing office shall create a public  
2 filing.

3 (e) When a public filing version of an official filing exists, both  
4 of the following shall apply:

5 (1) Upon a request for inspection, copying, or ~~any~~ other public  
6 disclosure of an official filing that is not exempt from disclosure,  
7 a filing office shall make available only the public filing version  
8 of that filing.

9 (2) A filing office shall publicly disclose an official filing only  
10 in response to a subpoena or order of a court of competent  
11 jurisdiction.

12 (3) ~~Nothing in this article shall be construed to~~ *This article does*  
13 *not* restrict, delay, or modify access to ~~any~~ *an* official filing, or  
14 modify ~~any~~ existing agreements regarding access to ~~any~~ *an* official  
15 filing, prior to the creation and availability of a public filing version  
16 of that official filing.

17 (f) A filing office shall be deemed to be in compliance with the  
18 requirements of this section and shall not be liable for failure to  
19 truncate a social security number if ~~he or she~~ *the office* uses due  
20 diligence to locate social security numbers in official records and  
21 truncate the social security numbers in the public filing version of  
22 those official filings. The use of an automated program with a high  
23 rate of accuracy shall be deemed to be due diligence.

24 (g) In the event that a filing office fails to truncate a social  
25 security number contained in a record pursuant to subdivision (b)  
26 or (d), ~~any~~ *a* person may request that the filing office truncate the  
27 social security number contained in that record. Notwithstanding  
28 that a filing office may be deemed to be in compliance with this  
29 section pursuant to subdivision (f), a filing office that receives a  
30 request that identifies the exact location of an untruncated social  
31 security number that is required to be truncated pursuant to  
32 subdivision (b) or (d) within a specifically identified record, shall  
33 truncate that number within 10 business days of receiving the  
34 request. The public filing with the truncated social security number  
35 shall replace the record with the untruncated number.

36 (h) The Secretary of State shall not produce or make available  
37 financing statements in the form and format described in Section  
38 9521 that provide a space identified for the disclosure of the social  
39 security number of an individual.

1 (i) The Secretary of State shall produce and make available  
2 financing statements in the form and format described in Section  
3 9521, except that the financing statements shall not provide a space  
4 identified for the disclosure of the social security number of an  
5 individual.

6 (j) ~~The provisions of this section shall~~ *This section does not*  
7 apply to a county recorder.

8 SEC. 38. The heading of Chapter 1 (commencing with Section  
9 8006) of Part 6 of Division 1 of Title 1 of the Education Code is  
10 amended to read:

11  
12 CHAPTER 1. ~~VOCATIONAL~~ CAREER TECHNICAL EDUCATION  
13

14 SEC. 39. The heading of Article 1 (commencing with Section  
15 8006) of Chapter 1 of Part 6 of Division 1 of Title 1 of the  
16 Education Code is amended to read:

17  
18 Article 1. ~~Vocational~~ Career Technical Education Staff and  
19 Reports  
20

21 SEC. 40. Section 8484 of the Education Code is amended to  
22 read:

23 8484. (a) As required by the department, programs established  
24 pursuant to this article shall submit annual ~~outcome-based~~  
25 *outcome-based* data for evaluation, including research-based  
26 indicators and measurable ~~student~~ *pupil* outcomes for academic  
27 performance, attendance, and positive behavioral changes. The  
28 department may consider these outcomes when determining  
29 eligibility for grant renewal.

30 (1) To demonstrate program effectiveness, grantees shall submit  
31 both of the following:

32 (A) Schoolday attendance on an annual basis.

33 (B) Program attendance.

34 (2) To demonstrate program effectiveness based upon individual  
35 program focus, programs shall submit one or more of the following  
36 measures annually:

37 (A) Positive behavioral changes, as reported by schoolday  
38 teachers or after school staff who directly supervise pupils.

39 (B) Pupil Standardized Testing and Reporting (STAR) Program  
40 test scores.

1 (C) Homework completion rates as reported by schoolday  
2 teachers or after school staff who directly supervise pupils.

3 (D) Skill development as reported by schoolday teachers or  
4 after school staff who directly supervise pupils.

5 (E) The department may develop additional measures for this  
6 paragraph. ~~Any additions~~ *An addition* shall be developed in  
7 consultation with the evaluation committee of the advisory  
8 committee.

9 (3) Programs shall submit information adopted through the  
10 process outlined in subdivision (c).

11 (b) (1) If a program consistently fails to demonstrate measurable  
12 program outcomes for three consecutive years, the department  
13 may terminate the program as described in subdivision (a) of  
14 Section 8483.7. The department shall consider multiple outcomes  
15 and not rely on one outcome in isolation.

16 (2) For ~~the~~ purposes of this section, “consistently fails to  
17 demonstrate measurable program outcomes” means failure to meet  
18 program effectiveness requirements pursuant to the criteria in  
19 paragraphs (1) and (2) of subdivision (a).

20 (3) Measurable program outcomes may be demonstrated by,  
21 but are not limited to, the following methods:

22 (A) Comparing pupils participating in the program to  
23 nonparticipating pupils at the same schoolsite.

24 (B) Pupils participating in the program demonstrate  
25 improvement on one or more indicators collected by the program  
26 pursuant to this paragraph.

27 (4) For ~~the~~ purposes of subparagraph (B) of paragraph (2) of  
28 subdivision (a), program effectiveness may be demonstrated using  
29 performance levels from the STAR Program by any of the  
30 following:

31 (A) The grantee documents *that* the percentage of pupils  
32 performing at the far below basic level declined.

33 (B) The grantee documents *that* the percentage of pupils  
34 performing above the far below basic and below basic levels  
35 increased.

36 (C) The grantee documents *that* the percentage of pupils who  
37 performed at or above the basic level increased.

38 (D) The grantee documents *that* pupils participating in the  
39 program performed better in a year-to-year comparison of the

1 results of the STAR Program than their peers who were not  
2 participating in the program.

3 (c) The department shall develop standardized procedures and  
4 tools to collect the indicators in paragraphs (1) and (2) of  
5 subdivision (a). The department shall consult with the evaluation  
6 committee of the Advisory Committee on Before and After School  
7 Programs pursuant to Section 8484.9.

8 SEC. 41. Section 8774 of the Education Code is amended to  
9 read:

10 8774. (a) A residential outdoor science program shall be  
11 eligible for funding pursuant to this section if it meets both of the  
12 following conditions:

13 (1) It is operated by a school district or county office of  
14 education pursuant to this article.

15 (2) It meets the standards of the Residential Outdoor Science  
16 School (ROSS) Guide and maintains current ~~State Department of~~  
17 ~~Education~~ *department* ROSS certification.

18 (b) An eligible residential outdoor science program may claim  
19 apportionment for any pupil who meets all of the following  
20 conditions:

21 (1) The pupil is enrolled in a California public school.

22 (2) The pupil is enrolled in grade 5 or 6.

23 (3) The applicant has not previously received funding for the  
24 pupil ~~pursuant~~ *pursuant* to this section.

25 (4) The pupil participates in a minimum ~~four-day~~ *four-day* and  
26 ~~three-night~~ *three-night* program.

27 (5) The pupil is economically disadvantaged and meets the  
28 criteria of Section 49552.

29 (c) The Superintendent shall, subject to appropriation of funds  
30 for this purpose, apportion to each school district or county office  
31 of education that operates a residential outdoor science program  
32 pursuant to this article an amount equal to ten dollars (\$10) per  
33 eligible participating pupil, multiplied by the total number of days  
34 of participation, up to a maximum of five days.

35 SEC. 42. Section 17075.10 of the Education Code is amended  
36 to read:

37 17075.10. (a) A school district may apply for hardship  
38 assistance in cases of extraordinary circumstances. Extraordinary  
39 circumstances may include, but are not limited to, the need to  
40 repair, reconstruct, or replace the most vulnerable school facilities

1 that are *identified as* a Category 2 building, as defined in the report  
2 submitted pursuant to Section 17317, determined by the department  
3 to pose an unacceptable risk of injury to its occupants in the event  
4 of a seismic event.

5 (b) A school district applying for hardship state funding under  
6 this article shall comply with either paragraph (1) or (2).

7 (1) Demonstrate both of the following:

8 (A) That due to extreme financial, disaster-related, or other  
9 hardship the school district has unmet need for pupil housing.

10 (B) That the school district is not financially capable of  
11 providing the matching funds otherwise required for state  
12 participation, that the district has made all reasonable efforts to  
13 impose all levels of local debt capacity and development fees, and  
14 that the school district is, therefore, unable to participate in the  
15 program pursuant to this chapter except as set forth in this article.

16 (2) Demonstrate that due to unusual circumstances that are  
17 beyond the control of the district, excessive costs need to be  
18 incurred in the construction of school facilities. Funds for the  
19 purpose of seismic mitigation work or facility replacement pursuant  
20 to this section shall be allocated by the board on a ~~50-percent~~  
21 *50-percent* state share basis from ~~any~~ funds reserved for that  
22 purpose in any bond approved by the voters after January 1, 2006.  
23 If the board determines that the seismic mitigation work of a school  
24 building would require funding that is greater than 50 percent of  
25 the funds required to construct a new facility, the school district  
26 shall be eligible for funding to construct a new facility under this  
27 chapter.

28 (c) The board shall review the increased costs that may be  
29 uniquely associated with urban construction and shall adjust the  
30 per-pupil grant for new construction or modernization hardship  
31 applications as necessary to accommodate those costs. The board  
32 shall adopt regulations setting forth the standards, methodology,  
33 and a schedule of allowable adjustments, for the urban adjustment  
34 factor established pursuant to this subdivision.

35 SEC. 43. Section 33051 of the Education Code is amended to  
36 read:

37 ~~33051. (a) The State Board of Education~~ *state board* shall  
38 approve any and all requests for waivers except in those cases  
39 where the board specifically finds any of the following:

1 (1) The educational needs of the pupils are not adequately  
2 addressed.

3 (2) The waiver affects a program that requires the existence of  
4 a schoolsite council and the schoolsite council did not approve the  
5 request.

6 (3) The appropriate councils or advisory committees, including  
7 bilingual advisory committees, did not have an adequate  
8 opportunity to review the request and the request did not include  
9 a written summary of any objections to the request by the councils  
10 or advisory committees.

11 (4) Pupil or school personnel protections are jeopardized.

12 (5) Guarantees of parental involvement are jeopardized.

13 (6) The request would substantially increase state costs.

14 (7) The exclusive representative of employees, if any, as  
15 provided in Chapter 10.7 (commencing with Section 3540) of  
16 Division 4 of Title 1 of the Government Code, was not a participant  
17 in the development of the waiver.

18 ~~(b) The State Board of Education shall not approve any request~~  
19 ~~for waiver of any provision of Article 5 (commencing with Section~~  
20 ~~39390) of Chapter 3 of Part 23 unless the school district seeking~~  
21 ~~the waiver demonstrates all of the following:~~

22 ~~(1) The school district provided the written notice required under~~  
23 ~~subdivision (f) of Section 33050.~~

24 ~~(2) The school district, after making a good-faith effort to that~~  
25 ~~purpose, was unable to reach agreement with any public agency~~  
26 ~~identified under Section 39394 that seeks to acquire the site under~~  
27 ~~that article on terms and conditions that are consistent with the~~  
28 ~~requirements of the purchase plan adopted by the agency under~~  
29 ~~Section 39397.5 and would enable the district to meet its reasonable~~  
30 ~~financial goals.~~

31 ~~(3) The detriment to the school district's ability to financially~~  
32 ~~meet the educational needs of the community resulting from the~~  
33 ~~disposition of the school site pursuant to the sale price or lease~~  
34 ~~rate limitations set forth in Section 39396, as compared to the fair~~  
35 ~~market value of the site, outweighs the need for the use of the site~~  
36 ~~for outdoor recreational and open-space purposes as established~~  
37 ~~by a finding made under Section 39397.~~

38 ~~(4) In the event that the school district enters into a long-term~~  
39 ~~lease during the period of the waiver or any extension thereof, the~~  
40 ~~school district shall be exempt from the requirements of Article 5~~

1 ~~(commencing with Section 39390) of Chapter 3 of Part 33, for the~~  
2 ~~duration of the lease term for that site.~~

3 (e)

4 (b) The governing board of a school district that has requested  
5 and received a general waiver under this article for two consecutive  
6 years for the same general waiver is not required to reapply  
7 annually if the information contained on the request remains  
8 current. ~~The State Board of Education~~ *state board* may require  
9 updated information for the request whenever it determines that  
10 information to be necessary. ~~Nothing in this section shall prevent~~  
11 ~~the State Board of Education~~ *This section does not prevent the*  
12 *state board* from rescinding a waiver if additional information  
13 supporting a rescission is made available to the board. This waiver  
14 process shall not apply to waivers pertaining to teacher  
15 credentialing, which shall be submitted to the ~~State Board of~~  
16 ~~Education~~ *state board* annually.

17 SEC. 44. Section 33382 of the Education Code is amended to  
18 read:

19 33382. ~~The State Board~~ *state board*, upon the advice and  
20 recommendations of the Superintendent, shall approve revised  
21 guidelines for the selection and administration of California  
22 American Indian education centers. The Superintendent shall  
23 request input from the American Indian Education Oversight  
24 Committee on amendments and updates to the 1975 guidelines  
25 and the committee may provide input to the Superintendent prior  
26 to the submission of the guidelines to the ~~State Board~~ *state board*.

27 SEC. 45. Section 35021.3 of the Education Code is amended  
28 to read:

29 35021.3. (a) A school district or a county office of education  
30 may establish a registry of volunteer after school physical  
31 recreation instructors and other before and after school ~~programs~~  
32 *program* volunteers.

33 (b) (1) To be included on a registry established pursuant to this  
34 section, a prospective registrant shall submit to a criminal  
35 background check pursuant to Section 45125. The prospective  
36 registrant shall also submit current contact information to the  
37 school district or county office maintaining the registry and shall  
38 update that information whenever the information changes.

39 (2) A school, school district, or county office of education may  
40 contribute funds to pay for all or part of the cost of a criminal



1 background check required of a prospective registrant pursuant to  
2 paragraph (1).

3 (c) A school district or county office maintaining a registry may  
4 impose other requirements on prospective registrants, including,  
5 but not limited to, certification in cardiopulmonary resuscitation.

6 (d) Upon approval of the person acting as the coordinator of,  
7 or overseeing, the ~~after-school~~ *after school* activities of the school,  
8 a school under the jurisdiction of a school district or county office  
9 of education maintaining a registry may allow a volunteer  
10 registered with the school district or county office to provide  
11 instruction in physical recreation to pupils after school hours or  
12 provide other services.

13 (e) This section does not require a school district or county  
14 office of education to establish or maintain a registry and does not  
15 require a school to use a volunteer from a registry to provide  
16 instruction in physical recreation to pupils after school hours or  
17 provide other services.

18 (f) Instruction in physical recreation provided to a pupil by a  
19 volunteer pursuant to subdivision (d) shall not be counted toward  
20 satisfaction of either the physical education course requirements  
21 for graduation from high school pursuant to Section 51225.3 or  
22 the number of minutes of instruction in physical education required  
23 pursuant to Section 51210, 51222, or 51223, as applicable.

24 SEC. 46. Section 46300 of the Education Code is amended to  
25 read:

26 46300. (a) In computing average daily attendance of a school  
27 district or county office of education, there shall be included the  
28 attendance of pupils while engaged in educational activities  
29 required of those pupils and under the immediate supervision and  
30 control of an employee of the district or county office who  
31 possessed a valid certification document, registered as required  
32 by law.

33 (b) (1) For ~~the~~ purposes of a work experience education  
34 program in a secondary school that meets the standards of the  
35 California State Plan for ~~Vocational~~ *Career Technical* Education,  
36 “immediate supervision,” in the context of off-campus work  
37 training stations, means pupil participation in on-the-job training  
38 as outlined under a training agreement, coordinated by the school  
39 district under a state-approved plan, wherein the employer and

1 certificated school personnel share the responsibility for on-the-job  
2 supervision.

3 (2) The pupil-teacher ratio in a work experience program shall  
4 not exceed 125 pupils per full-time equivalent certificated teacher  
5 coordinator. ~~Notwithstanding Section 52033, this~~ *This* ratio may  
6 be waived by the ~~State Board of Education~~ *state board* pursuant  
7 to Article 3 (commencing with Section 33050) of Chapter 1 of  
8 Part 20 *of Division 3* under criteria developed by the ~~State Board~~  
9 ~~of Education~~ *state board*.

10 (3) A pupil enrolled in a work experience program shall not be  
11 credited with more than one day of attendance per calendar day,  
12 and shall be a full-time pupil enrolled in regular classes that meet  
13 the requirements of Section 46141 or 46144.

14 (c) (1) For purposes of the rehabilitative schools, classes, or  
15 programs described in Section 48917 that require immediate  
16 supervision, “immediate supervision” means that the person to  
17 whom the pupil is required to report for training, counseling,  
18 tutoring, or other prescribed activity shares the responsibility for  
19 the supervision of the pupils in the rehabilitative activities with  
20 certificated personnel of the district.

21 (2) A pupil enrolled in a rehabilitative school, class, or program  
22 shall not be credited with more than one day of attendance per  
23 calendar day.

24 (d) (1) For ~~the~~ purposes of computing the average daily  
25 attendance of pupils engaged in the educational activities required  
26 of high school pupils who are also enrolled in a regional  
27 occupational center or regional occupational program, the school  
28 district shall receive proportional average daily attendance credit  
29 for those educational activities that are less than the minimum  
30 schoolday, pursuant to regulations adopted by the ~~State Board of~~  
31 ~~Education~~ *state board*; however, none of that attendance shall be  
32 counted for purposes of computing attendance pursuant to Section  
33 52324.

34 (2) A school district shall not receive proportional average daily  
35 attendance credit pursuant to this subdivision for ~~any~~ *a* pupil in  
36 attendance for less than 145 minutes each day.

37 (3) The divisor for computing proportional average daily  
38 attendance pursuant to this subdivision is 240, except that, in the  
39 case of a pupil excused from physical education classes pursuant  
40 to Section 52316, the divisor is 180.

(4) Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) (1) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in independent study conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for five or more consecutive schooldays.

(2) A pupil participating in independent study shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative-~~vocational~~ *career technical* education programs and community classrooms described in Section 52372.1, “immediate supervision” means pupil participation in paid and unpaid on-the-job experiences, as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

(g) In computing the average daily attendance of a school district, there shall be included the attendance of pupils in kindergarten after they have completed one school year in kindergarten only if the school district has on file for each of those pupils an agreement made pursuant to Section 48011, approved in form and content by the ~~State Department of Education~~ *department* and signed by the pupil’s parent or guardian, that the pupil may continue in kindergarten for not more than ~~an~~ *one* additional school year.

SEC. 47. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within ~~any~~ *a* school district may be circulated by ~~any~~ one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

1 (A) The petition has been signed by a number of parents or legal  
2 guardians of pupils that is equivalent to at least one-half of the  
3 number of pupils that the charter school estimates will enroll in  
4 the school for its first year of operation.

5 (B) The petition has been signed by a number of teachers that  
6 is equivalent to at least one-half of the number of teachers that the  
7 charter school estimates will be employed at the school during its  
8 first year of operation.

9 (2) A petition that proposes to convert an existing public school  
10 to a charter school that would not be eligible for a loan pursuant  
11 to subdivision (b) of Section 41365 may be circulated by ~~any~~ one  
12 or more persons seeking to establish the charter school. The petition  
13 may be submitted to the governing board of the school district for  
14 review after the petition has been signed by not less than 50 percent  
15 of the permanent status teachers currently employed at the public  
16 school to be converted.

17 (3) A petition shall include a prominent statement that a  
18 signature on the petition means that the parent or legal guardian  
19 is meaningfully interested in having his or her child or ward attend  
20 the charter school, or in the case of a teacher's signature, means  
21 that the teacher is meaningfully interested in teaching at the charter  
22 school. The proposed charter shall be attached to the petition.

23 (4) After receiving approval of its petition, a charter school that  
24 proposes to establish operations at one or more additional sites  
25 shall request a material revision to its charter and shall notify the  
26 authority that granted its charter of those additional locations. The  
27 authority that granted its charter shall consider whether to approve  
28 those additional locations at an open, public meeting. If the  
29 additional locations are approved, they shall be a material revision  
30 to the charter school's charter.

31 (5) ~~Notwithstanding subdivision (a), a~~ A charter school that is  
32 unable to locate within the jurisdiction of the chartering school  
33 district may establish one site outside the boundaries of the school  
34 district, but within the county ~~within~~ *in* which that school district  
35 is located, if the school district ~~within whose~~ *the* jurisdiction of  
36 ~~which~~ the charter school proposes to operate is notified in advance  
37 of the charter petition approval, the county superintendent of  
38 schools and the Superintendent are notified of the location of the  
39 charter school before it commences operations, and either of the  
40 following circumstances exist:

1 (A) The school has attempted to locate a single site or facility  
2 to house the entire program, but a site or facility is unavailable in  
3 the area in which the school chooses to locate.

4 (B) The site is needed for temporary use during a construction  
5 or expansion project.

6 (6) Commencing January 1, 2003, a petition to establish a charter  
7 school may not be approved to serve pupils in a grade level that  
8 is not served by the school district of the governing board  
9 considering the petition, unless the petition proposes to serve pupils  
10 in all of the grade levels served by that school district.

11 (b) No later than 30 days after receiving a petition, in accordance  
12 with subdivision (a), the governing board of the school district  
13 shall hold a public hearing on the provisions of the charter, at  
14 which time the governing board of the school district shall consider  
15 the level of support for the petition by teachers employed by the  
16 district, other employees of the district, and parents. Following  
17 review of the petition and the public hearing, the governing board  
18 of the school district shall either grant or deny the charter within  
19 60 days of receipt of the petition, provided, however, that the date  
20 may be extended by an additional 30 days if both parties agree to  
21 the extension. In reviewing petitions for the establishment of  
22 charter schools pursuant to this section, the chartering authority  
23 shall be guided by the intent of the Legislature that charter schools  
24 are and should become an integral part of the California educational  
25 system and that establishment of charter schools should be  
26 encouraged. The governing board of the school district shall grant  
27 a charter for the operation of a school under this part if it is satisfied  
28 that granting the charter is consistent with sound educational  
29 practice. The governing board of the school district shall not deny  
30 a petition for the establishment of a charter school unless it makes  
31 written factual findings, specific to the particular petition, setting  
32 forth specific facts to support one or more of the following  
33 findings:

34 (1) The charter school presents an unsound educational program  
35 for the pupils to be enrolled in the charter school.

36 (2) The petitioners are demonstrably unlikely to successfully  
37 implement the program set forth in the petition.

38 (3) The petition does not contain the number of signatures  
39 required by subdivision (a).

1 (4) The petition does not contain an affirmation of each of the  
2 conditions described in subdivision (d).

3 (5) The petition does not contain reasonably comprehensive  
4 descriptions of all of the following:

5 (A) (i) A description of the educational program of the school,  
6 designed, among other things, to identify those whom the school  
7 is attempting to educate, what it means to be an “educated person”  
8 in the 21st century, and how learning best occurs. The goals  
9 identified in that program shall include the objective of enabling  
10 pupils to become self-motivated, competent, and lifelong learners.

11 (ii) If the proposed school will serve high school pupils, a  
12 description of the manner in which the charter school will inform  
13 parents about the transferability of courses to other public high  
14 schools and the eligibility of courses to meet college entrance  
15 requirements. Courses offered by the charter school that are  
16 accredited by the Western Association of Schools and Colleges  
17 may be considered transferable and courses approved by the  
18 University of California or the California State University as  
19 creditable under the “A” to “G” admissions criteria may be  
20 considered to meet college entrance requirements.

21 (B) The measurable pupil outcomes identified for use by the  
22 charter school. “Pupil outcomes,” for purposes of this part, means  
23 the extent to which all pupils of the school demonstrate that they  
24 have attained the skills, knowledge, and attitudes specified as goals  
25 in the school’s educational program.

26 (C) The method by which pupil progress in meeting those pupil  
27 outcomes is to be measured.

28 (D) The governance structure of the school, including, but not  
29 limited to, the process to be followed by the school to ensure  
30 parental involvement.

31 (E) The qualifications to be met by individuals to be employed  
32 by the school.

33 (F) The procedures that the school will follow to ensure the  
34 health and safety of pupils and staff. These procedures shall include  
35 the requirement that each employee of the school furnish the school  
36 with a criminal record summary as described in Section 44237.

37 (G) The means by which the school will achieve a racial and  
38 ethnic balance among its pupils that is reflective of the general  
39 population residing within the territorial jurisdiction of the school  
40 district to which the charter petition is submitted.

1 (H) Admission requirements, if applicable.

2 (I) The manner in which annual, independent, financial audits  
3 shall be conducted, which shall employ generally accepted  
4 accounting principles, and the manner in which audit exceptions  
5 and deficiencies shall be resolved to the satisfaction of the  
6 chartering authority.

7 (J) The procedures by which pupils can be suspended or  
8 expelled.

9 (K) The manner by which staff members of the charter schools  
10 will be covered by the State Teachers' Retirement System, the  
11 Public Employees' Retirement System, or federal social security.

12 (L) The public school attendance alternatives for pupils residing  
13 within the school district who choose not to attend charter schools.

14 (M) A description of the rights of any employee of the school  
15 district upon leaving the employment of the school district to work  
16 in a charter school, and of any rights of return to the school district  
17 after employment at a charter school.

18 (N) The procedures to be followed by the charter school and  
19 the entity granting the charter to resolve disputes relating to  
20 provisions of the charter.

21 (O) A declaration whether or not the charter school shall be  
22 deemed the exclusive public school employer of the employees of  
23 the charter school for the purposes of the ~~Educational Employment~~  
24 ~~Relations Act (Chapter 10.7 (commencing with Section~~  
25 ~~3540) of Division 4 of Title 1 of the Government Code)~~ *Code*.

26 (P) A description of the procedures to be used if the charter  
27 school closes. The procedures shall ensure a final audit of the  
28 school to determine the disposition of all assets and liabilities of  
29 the charter school, including plans for disposing of any net assets  
30 and for the maintenance and transfer of pupil records.

31 (c) (1) Charter schools shall meet all statewide standards and  
32 conduct the pupil assessments required pursuant to Sections 60605  
33 and 60851 and any other statewide standards authorized in statute  
34 or pupil assessments applicable to pupils in noncharter public  
35 schools.

36 (2) Charter schools shall, on a regular basis, consult with their  
37 parents, legal guardians, and teachers regarding the school's  
38 educational programs.

39 (d) (1) In addition to any other requirement imposed under this  
40 part, a charter school shall be nonsectarian in its programs,

1 admission policies, employment practices, and all other operations,  
2 shall not charge tuition, and shall not discriminate against any  
3 pupil on the basis of the characteristics listed in Section 220. Except  
4 as provided in paragraph (2), admission to a charter school shall  
5 not be determined according to the place of residence of the pupil,  
6 or of his or her parent or legal guardian, within this state, except  
7 that ~~any~~ *an* existing public school converting partially or entirely  
8 to a charter school under this part shall adopt and maintain a policy  
9 giving admission preference to pupils who reside within the former  
10 attendance area of that public school.

11 (2) (A) A charter school shall admit all pupils who wish to  
12 attend the school.

13 (B) However, if the number of pupils who wish to attend the  
14 charter school exceeds the school's capacity, attendance, except  
15 for existing pupils of the charter school, shall be determined by a  
16 public random drawing. Preference shall be extended to pupils  
17 currently attending the charter school and pupils who reside in the  
18 district except as provided for in Section 47614.5. Other  
19 preferences may be permitted by the chartering authority on an  
20 individual school basis and only if consistent with the law.

21 (C) In the event of a drawing, the chartering authority shall  
22 make reasonable efforts to accommodate the growth of the charter  
23 school and; in no event; shall take any action to impede the charter  
24 school from expanding enrollment to meet pupil demand.

25 (3) If a pupil is expelled or leaves the charter school without  
26 graduating or completing the school year for any reason, the charter  
27 school shall notify the superintendent of the school district of the  
28 pupil's last known address within 30 days, and shall, upon request,  
29 provide that school district with a copy of the cumulative record  
30 of the pupil, including a transcript of grades or report card, and  
31 health information. This paragraph applies only to pupils subject  
32 to compulsory full-time education pursuant to Section 48200.

33 (e) The governing board of a school district shall not require  
34 any employee of the school district to be employed in a charter  
35 school.

36 (f) The governing board of a school district shall not require  
37 any pupil enrolled in the school district to attend a charter school.

38 (g) The governing board of a school district shall require that  
39 the petitioner or petitioners provide information regarding the  
40 proposed operation and potential effects of the school, including,



1 but not limited to, the facilities to be utilized by the school, the  
2 manner in which administrative services of the school are to be  
3 provided, and potential civil liability effects, if any, upon the school  
4 and upon the school district. The description of the facilities to be  
5 used by the charter school shall specify where the school intends  
6 to locate. The petitioner or petitioners shall also be required to  
7 provide financial statements that include a proposed first-year  
8 operational budget, including startup costs, and cashflow and  
9 financial projections for the first three years of operation.

10 (h) In reviewing petitions for the establishment of charter  
11 schools within the school district, the governing board of the school  
12 district shall give preference to petitions that demonstrate the  
13 capability to provide comprehensive learning experiences to pupils  
14 identified by the petitioner or petitioners as academically low  
15 achieving pursuant to the standards established by the department  
16 under Section 54032 *as it read prior to July 19, 2006*.

17 (i) Upon the approval of the petition by the governing board of  
18 the school district, the petitioner or petitioners shall provide written  
19 notice of that approval, including a copy of the petition, to the  
20 applicable county superintendent of schools, the department, and  
21 the state board.

22 (j) (1) If the governing board of a school district denies a  
23 petition, the petitioner may elect to submit the petition for the  
24 establishment of a charter school to the county board of education.  
25 The county board of education shall review the petition pursuant  
26 to subdivision (b). If the petitioner elects to submit a petition for  
27 establishment of a charter school to the county board of education  
28 and the county board of education denies the petition, the petitioner  
29 may file a petition for establishment of a charter school with the  
30 state board, and the state board may approve the petition, in  
31 accordance with subdivision (b). ~~Any~~ A charter school that receives  
32 approval of its petition from a county board of education or from  
33 the state board on appeal shall be subject to the same requirements  
34 concerning geographic location ~~that to which~~ it would otherwise  
35 be subject ~~to~~ if it ~~receives~~ *received* approval from the entity to  
36 ~~whom~~ *which* it originally ~~submits~~ *submitted* its petition. A charter  
37 petition that is submitted to either a county board of education or  
38 to the state board shall meet all otherwise applicable petition  
39 requirements, including the identification of the proposed site or  
40 sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b) and shall define “reasonably comprehensive” as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition shall, thereafter, be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the state board to any local education agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local education agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that has been granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school’s petition for renewal, the school may petition the state board for renewal of its charter.

1 (l) Teachers in charter schools shall hold a Commission on  
2 Teacher Credentialing certificate, permit, or other document  
3 equivalent to that which a teacher in other public schools would  
4 be required to hold. These documents shall be maintained on file  
5 at the charter school and are subject to periodic inspection by the  
6 chartering authority. It is the intent of the Legislature that charter  
7 schools be given flexibility with regard to noncore, noncollege  
8 preparatory courses.

9 (m) A charter school shall transmit a copy of its annual,  
10 independent, financial audit report for the preceding fiscal year,  
11 as described in subparagraph (I) of paragraph (5) of subdivision  
12 (b), to its chartering entity, the Controller, the county  
13 superintendent of schools of the county in which the charter school  
14 is sited, unless the county board of education of the county in  
15 which the charter school is sited is the chartering entity, and the  
16 department by December 15 of each year. This subdivision does  
17 not apply if the audit of the charter school is encompassed in the  
18 audit of the chartering entity pursuant to Section 41020.

19 SEC. 48. Section 48980 of the Education Code is amended to  
20 read:

21 48980. (a) At the beginning of the first semester or quarter of  
22 the regular school term, the governing board of each school district  
23 shall notify the parent or guardian of a minor pupil regarding the  
24 right or responsibility of the parent or guardian under Sections  
25 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472,  
26 and 51938 and Chapter 2.3 (commencing with Section 32255) of  
27 Part 19 of *Division 1 of Title 1*.

28 (b) The notification also shall advise the parent or guardian of  
29 the availability of individualized instruction as prescribed by  
30 Section 48206.3, and of the program prescribed by Article 9  
31 (commencing with Section 49510) of Chapter 9.

32 (c) The notification also shall advise the parents and guardians  
33 of all pupils attending a school within the school district of the  
34 schedule of minimum days and pupil-free staff development days,  
35 and if ~~any~~ minimum or pupil-free staff development days are  
36 scheduled thereafter, the governing board of the district shall notify  
37 parents and guardians of the affected pupils as early as possible,  
38 but not later than one month before the scheduled minimum or  
39 pupil-free day.

(d) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options, including, but not limited to, United States ~~Savings Bonds~~ *savings bonds*.

(e) The notification shall advise the parent or guardian of the pupil that each pupil completing grade 12 is required to successfully pass the high school exit examination administered pursuant to Chapter 9 (commencing with Section 60850) of Part 33. The notification shall include, at a minimum, the date of the examination, the requirements for passing the examination, and shall inform the parents and guardians regarding the consequences of not passing the examination and shall inform parents and guardians that passing the examination is a condition of graduation.

(f) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) of Chapter 3 of Part 19 *of Division 1 of Title 1* shall inform parents or guardians of the program as specified in Section 32390.

(g) The notification *also* shall ~~also~~ include a copy of the written policy of the school district on sexual harassment established pursuant to Section 231.5, as it relates to pupils.

(h) The notification shall advise the parent or guardian of all existing statutory attendance options and local attendance options available in the school district. This notification component shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. This notification component also shall include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification component also shall include an explanation of the existing statutory attendance options, including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, and subdivision (b) of Section 48204. The department shall produce this portion of the notification and shall distribute it to all school districts.

1 (i) It is the intent of the Legislature that the governing board of  
2 each school district annually review the enrollment options  
3 available to the pupils within ~~their districts~~ *its district* and that the  
4 districts strive to make available enrollment options that meet the  
5 diverse needs, potential, and interests of the pupils of California.

6 (j) The notification shall advise the parent or guardian that a  
7 pupil shall not have his or her grade reduced or lose academic  
8 credit for any absence or absences excused pursuant to Section  
9 48205 if missed assignments and tests that can reasonably be  
10 provided are satisfactorily completed within a reasonable period  
11 of time, and shall include the full text of Section 48205.

12 (k) The notification shall advise the parent or guardian of the  
13 availability of state funds to cover the costs of advanced placement  
14 examination fees pursuant to Section 52244.

15 (l) The notification to the parent or guardian of a minor pupil  
16 enrolled in any of grades 9 to 12, inclusive, also shall include the  
17 information required pursuant to Section 51229.

18 SEC. 49. Section 49423.5 of the Education Code is amended  
19 to read:

20 49423.5. (a) Notwithstanding Section 49422, an individual  
21 with exceptional needs who requires specialized physical health  
22 care services, during the regular schoolday, may be assisted by  
23 any of the following individuals:

24 (1) Qualified persons who possess an appropriate credential  
25 issued pursuant to Section 44267 or 44267.5, or hold a valid  
26 certificate of public health nursing issued by the Board of  
27 Registered Nursing.

28 (2) Qualified designated school personnel trained in the  
29 administration of specialized physical health care if they perform  
30 those services under the supervision, as defined by Section 3051.12  
31 of Title 5 of the California Code of Regulations, of a credentialed  
32 school nurse, public health nurse, or licensed physician and surgeon  
33 and the services are determined by the credentialed school nurse  
34 or licensed physician and surgeon, in consultation with the  
35 physician treating the pupil, ~~to include~~ *be* all of the following:

36 (A) Routine for the pupil.

37 (B) Pose little potential harm for the pupil.

38 (C) Performed with predictable outcomes, as defined in the  
39 individualized education program of the pupil.

1 (D) ~~Does~~ Do not require a nursing assessment, interpretation,  
2 or decisionmaking by the designated school personnel.

3 (b) Specialized health care or other services that require  
4 medically related training shall be provided pursuant to the  
5 procedures prescribed by Section 49423.

6 (c) Persons providing specialized physical health care services  
7 shall also demonstrate competence in basic cardiopulmonary  
8 resuscitation and shall be knowledgeable of the emergency medical  
9 resources available in the community in which the services are  
10 performed.

11 (d) “Specialized physical health care services,” as used in this  
12 section, ~~include~~ *includes* catheterization, gastric tube feeding,  
13 suctioning, or other services that require medically related training.

14 (e) Regulations necessary to implement this section shall be  
15 developed jointly by the State Department of Education and the  
16 State Department of Health Care Services, and adopted by the  
17 ~~State Board~~ *state board*.

18 (f) This section does not diminish or weaken any federal  
19 requirement for serving individuals with exceptional needs under  
20 the Individuals with Disabilities Education Improvement Act (20  
21 U.S.C. Sec. 1400 et seq.), and its implementing regulations, and  
22 under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.  
23 Sec. 794) and its implementing regulations.

24 (g) ~~Nothing in this section affects~~ *This section does not affect*  
25 current state law or regulation regarding medication administration.

26 (h) It is the intent of the Legislature that ~~nothing in this section~~  
27 ~~shall cause the placement of~~ *not cause* individuals with exceptional  
28 needs *to be placed* at schoolsites other than those they would attend  
29 but for their needs for specialized physical health care services.

30 SEC. 50. Section 49431.7 of the Education Code is amended  
31 to read:

32 49431.7. (a) Commencing on July 1, 2009, a school or school  
33 district, through a vending machine or school food service  
34 establishment during school hours and ~~up to~~ one-half of an hour  
35 before and after school hours, shall not make available to pupils  
36 enrolled in kindergarten, or any of grades 1 to 12, inclusive, food  
37 containing artificial trans fat, as defined in subdivision (b), or use  
38 food containing artificial trans fat in the preparation of a food item  
39 served to those pupils.

1 (b) For purposes of this section, a food contains artificial trans  
2 fat if a food contains vegetable shortening, margarine, or any kind  
3 of partially hydrogenated vegetable oil, unless the manufacturer's  
4 documentation or the label required on the food, pursuant to  
5 applicable federal and state law, lists the trans fat content as less  
6 than 0.5 grams of trans fat per serving.

7 (c) For purposes of this section, "school food service  
8 establishment" means a place that regularly sells or serves a food  
9 item or meal on a school campus.

10 (d) This section does not apply to food provided as part of a  
11 USDA meal program.

12 SEC. 51. Section 51228 of the Education Code is amended to  
13 read:

14 51228. (a) Each school district maintaining any of grades 7  
15 to 12, inclusive, shall offer to all otherwise qualified pupils in those  
16 grades a course of study fulfilling the requirements and  
17 prerequisites for admission to the California public institutions of  
18 postsecondary education and shall provide a timely opportunity  
19 to each of those pupils to enroll within a four-year period in each  
20 course necessary to fulfill those requirements and prerequisites  
21 prior to graduation from high school.

22 (b) Each school district maintaining any of grades 7 to 12,  
23 inclusive, shall offer to all otherwise qualified pupils in those  
24 grades a course of study that provides an opportunity for those  
25 pupils to attain entry-level employment skills in business or  
26 industry upon graduation from high school. Districts are  
27 encouraged to provide all pupils with a rigorous academic  
28 curriculum that integrates academic and career skills, incorporates  
29 applied learning in all disciplines, and prepares all pupils for high  
30 school graduation and career entry.

31 (c) ~~Any~~ A school district that adopts a required curriculum that  
32 meets or exceeds the model standards developed and adopted by  
33 the ~~State Board of Education~~ *state board* pursuant to Section 51226  
34 shall be deemed to have fulfilled its responsibilities pursuant to  
35 subdivision (b).

36 (d) ~~Any~~ A school district that adopts a required curriculum  
37 pursuant to subdivision (c) that meets or exceeds the model  
38 standards developed by the ~~State Board of Education~~ *state board*  
39 pursuant to Section 51226, or that adopts alternative means for  
40 pupils to complete the prescribed course of study pursuant to

subdivision (b) of Section 51225.3, may substitute pupil demonstration of competence in the prescribed subjects through a practical demonstration of these skills in a regional occupational center or program, work experience, interdisciplinary study, independent study, credit earned at a postsecondary institution, or other outside school experience, as prescribed by Section ~~51225~~ 51225.3.

SEC. 52. Section 52244 of the Education Code is amended to read:

52244. (a) There is hereby established a grant program for the purpose of awarding grants to cover the costs of advanced placement fees or International Baccalaureate examination fees, or both, for eligible economically disadvantaged high school pupils. The department shall administer this program.

(b) An “eligible economically disadvantaged high school pupil” means a pupil who is either from a family whose *annual* household ~~annual~~ income is below 200 percent of the federal poverty level or a pupil who is eligible for a federal free or ~~reduced-price~~ *reduced-price* meal program.

(c) ~~Any~~ A school district may apply to the department for grant funding pursuant to this section, based on the number of economically disadvantaged pupils in the district enrolled in advanced placement courses who will take the next offered advanced placement examinations. A school district that applies to the department for this purpose shall designate school district staff to whom pupils may submit applications for grants and shall institute a plan to notify pupils of the availability of financial assistance pursuant to this section. Grants shall be expended only to pay the fees required of eligible economically disadvantaged high school pupils to take an advanced placement or International Baccalaureate examination, or both.

(d) ~~Any~~ An eligible economically disadvantaged high school pupil who is enrolled in an advanced placement or International Baccalaureate course, or both, may apply to the designated school district staff for a grant pursuant to this section. A pupil who receives a grant shall pay five dollars (\$5) of the examination fee.

(e) School districts and county superintendents of schools may join together and form collaboratives or consortia in order to participate in the grant program established by this section.



(f) Grants provided pursuant to this section may not be used to supplant fee waivers available to low-income pupils who take advanced placement or International Baccalaureate examinations.

(g) If the total school district applications exceed the total funds available pursuant to this section, the department shall prorate the grants based upon the ratio of the total amount requested to the total amount budgeted by the state for this purpose. Funding priority shall be given to advanced placement examination fees if there is insufficient funding allocated for the grant program in a given fiscal year.

(h) To facilitate program administration and school district reimbursement, the department may enter into a contract with the provider of advanced placement or International Baccalaureate examinations. For purposes of the contract authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(i) The department shall make every effort to obtain and allocate federal funding for the purposes of this program prior to expending any state funds. All state and federal funds obtained by the department for the purposes of this program shall be expended for these purposes only and are prohibited from being used to fund any other program.

(j) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 53. Section 52499.66 of the Education Code is amended to read:

52499.66. (a) The department shall be responsible for the creation, as set forth in subdivision (b), of comprehensive, easy to access, user-friendly *Internet* Web site pages with information about opportunities and programs available in the state on career technical education in elementary and secondary schools.

(b) (1) By July 1, 2008, the department shall select, on a competitive basis, an elementary or secondary school career technical education program for pupils to develop the *Internet* Web site pages as a part of a career technical education course of study related to technology and *Internet* Web site development.

1 The program may be part of a school district or regional  
2 occupational center or program course of study.

3 (2) The department shall establish criteria and parameters for  
4 the content of the *Internet* Web site pages and shall provide  
5 guidance to the selected career technical education design process.  
6 The department periodically shall review the work of the design  
7 process to ensure that all the criteria and legal considerations are  
8 being met. By July 1, 2009, the selected program shall complete  
9 the *Internet* Web site pages development project.

10 (3) By January 1, 2010, the *Internet* Web site pages on career  
11 technical education required to be created pursuant to this section  
12 shall be incorporated into the department's *Internet* Web site as  
13 an integral part of the existing department *Internet* Web site.

14 (4) The department shall establish criteria for the posting of  
15 information and links on the *Internet* Web site and shall provide  
16 ongoing *Internet* Web site administration and maintenance in  
17 keeping with department policies. The department *Internet* Web  
18 site may provide links to local and state public agencies, school  
19 districts, regional occupational centers and programs, adult  
20 education programs, and related career technical education  
21 programs in order for pupils, parents, teachers, and the public to  
22 easily access information.

23 (c) The career technical education *Internet* Web site pages  
24 created pursuant to this section should provide pupils, parents,  
25 guardians, teachers, counselors, administrators, business and  
26 industry, and professional and trades representatives with  
27 information regarding all of the following:

28 (1) Career technical education programs, possible course  
29 offerings, and graduation requirements.

30 (2) High school career technical education skill certificates and  
31 related postsecondary education, skill certificates, and  
32 apprenticeship requirements and admissions information.

33 (3) Best practices in elementary and secondary school career  
34 technical education programs and examples of successful  
35 curriculum and programs, including career technical *education*  
36 programs in high schools and regional occupational centers and  
37 programs.

38 (4) State and federal workforce statistical data and how-to-use  
39 data tips for educators and advisory committees on career technical  
40 education.

1 (5) Access to information regarding business and industry  
2 programs that may offer pupils and teachers support and internships  
3 or summer work experience.

4 (6) Professional and trades organizations that may be available  
5 to offer pupils and teachers support and internships or summer  
6 work experience.

7 (7) Links to related resources.

8 (8) Career technical education model curriculum standards to  
9 assist local educational agencies in the development of sequences  
10 of courses, skills certificates, and assessment tools.

11 (9) Funding sources and ongoing state and federal program  
12 guidelines, regulations, and funding opportunities.

13 (d) The career technical education *Internet* Web site pages  
14 created pursuant to this section shall allow for redirection to school  
15 district and public career technical education program *Internet*  
16 Web sites for more specific information about the availability of  
17 elementary and secondary school programs for pupils and teachers  
18 and to community college and other postsecondary opportunities.

19 SEC. 54. Section 52861 of the Education Code is amended to  
20 read:

21 52861. If a school district and school choose to include within  
22 the provisions of this article funds allocated pursuant to Article 4  
23 (commencing with Section 8750) of Chapter 4 of Part 6 of *Division*  
24 *1 of Title 1*, Article 5 (commencing with Section 44520) of Chapter  
25 3 of Part 25 of *Division 3 of this title*, Article 15 (commencing  
26 with Section 51870) of Chapter 5 of *this part*, and Article 2  
27 (commencing with Section 52340) of Chapter 9 of this part, and  
28 Chapter 1 (commencing with Section 500) of Part 2 of Division 2  
29 of the Military and Veterans Code, the district shall determine the  
30 portion of the district's grants, pursuant to those provisions, which  
31 shall be allocated to the school for inclusion in the school budget  
32 developed pursuant to ~~subdivision~~ *subdivision* (f) of Section 52853.

33 SEC. 55. Section 52922 of the Education Code is amended to  
34 read:

35 52922. (a) From funds appropriated for the purpose of this  
36 chapter, the Superintendent shall annually allocate to each school  
37 district, on behalf of each high school or middle school within the  
38 district that offers an International Baccalaureate *Diploma* Program,  
39 the amount of up to twenty-five thousand dollars (\$25,000) for  
40 each participating high school and middle school to cover the

1 ongoing costs of professional development required by the program  
2 and to help pay the test fees for low- and middle-income pupils in  
3 need of financial assistance, in accordance with criteria adopted  
4 by the Superintendent.

5 (b) The amount provided in subdivision (a) shall be increased  
6 annually by a cost-of-living adjustment, based on the same  
7 percentage increase that is provided to the revenue limits of unified  
8 school districts with 2,501 or more units of average daily  
9 attendance.

10 (c) The total amount allocated pursuant to subdivision (a) shall  
11 not exceed the total amount of the funds appropriated for those  
12 purposes in the annual Budget Act or ~~any other~~ *another* statute. If  
13 funds are insufficient to fully fund all grants authorized, annual  
14 grants shall first be allocated pursuant to subdivision (a) to those  
15 schools that were funded in the prior *fiscal* year and in the amount  
16 of the prior *fiscal* year grant with second priority given to high  
17 schools and middle schools that have the highest percentage of  
18 pupils from low-income families.

19 SEC. 56. Section 56030 of the Education Code is amended to  
20 read:

21 56030. “Responsible local agency” means the school district  
22 or county office *of education* designated in the local plan as the  
23 administrative entity ~~whose~~ *the duties of which* shall include, but  
24 are not limited to, receiving and distributing regionalized services  
25 funds, providing administrative support, and coordinating the  
26 implementation of the plan.

27 SEC. 57. Section 56300 of the Education Code is amended to  
28 read:

29 56300. A local educational agency shall actively and  
30 systematically seek out all individuals with exceptional needs,  
31 from birth ~~through~~ *to* 21 years of age, *inclusive*, including children  
32 not enrolled in public school programs, who reside in a school  
33 district or are under the jurisdiction of a special education local  
34 plan area or a county office *of education*.

35 SEC. 58. Section 56302 of the Education Code is amended to  
36 read:

37 56302. A local educational agency shall provide for the  
38 identification and assessment of the exceptional needs of an  
39 individual, and the planning of an instructional program to meet  
40 the assessed needs. Identification procedures shall include

1 systematic methods of utilizing referrals of pupils from teachers,  
2 parents, agencies, appropriate professional persons, and from other  
3 members of the public. Identification procedures shall be  
4 coordinated with ~~school-site~~ *schoolsite* procedures for referral of  
5 pupils with needs that cannot be met with modification of the  
6 regular instructional program.

7 SEC. 59. Section 56328 of the Education Code is amended to  
8 read:

9 56328. Notwithstanding the provisions of this chapter, a special  
10 education local plan area may utilize a ~~school-site~~ *schoolsite* level  
11 and a regional level service, as provided for under Section 56336.2  
12 as it read ~~immediately prior to the operative date of this section~~  
13 *prior to July 28, 1980*, to provide the services required by this  
14 chapter.

15 SEC. 60. Section 56331 of the Education Code is amended to  
16 read:

17 56331. (a) A pupil who is suspected of needing mental health  
18 services may be referred to a community mental health service in  
19 accordance with Section 7576 of the Government Code.

20 (b) Prior to referring a pupil to a county mental health agency  
21 for services, the local educational agency shall follow the  
22 procedures set forth in Section 56320 and conduct an assessment  
23 in accordance with Sections 300.301 to 300.306, inclusive, of Title  
24 34 of the Code of Federal Regulations. If an individual with  
25 exceptional needs is identified as potentially requiring mental  
26 health services, the local educational agency shall request the  
27 participation of the county mental health agency in the  
28 individualized education program. A local educational agency  
29 shall provide any ~~specialty-designed~~ *specialty designed* instruction  
30 required by an individualized education program, including related  
31 services such as counseling services, parent counseling and  
32 training, psychological services, or social work services in schools  
33 as defined in Section 300.34 of Title 34 of the Code of Federal  
34 Regulations. If the individualized education program of an  
35 individual with exceptional needs includes a functional behavioral  
36 assessment and behavior intervention plan, in accordance with  
37 Section 300.530 of Title 34 of the Code of Federal Regulations,  
38 the local educational agency shall provide documentation upon  
39 referral to a county mental health agency. Local educational  
40 agencies shall provide related services, by qualified personnel,

1 unless the individualized education program team designates a  
2 more appropriate agency for the provision of services. Local  
3 educational agencies and community mental health services shall  
4 work collaboratively to ensure that assessments performed prior  
5 to referral are as useful as possible to the community mental health  
6 service agency in determining the need for mental health services  
7 and the level of services needed.

8 SEC. 61. Section 56341.1 of the Education Code is amended  
9 to read:

10 56341.1. (a) When developing each pupil's individualized  
11 education program, the individualized education program team  
12 shall consider the following:

13 (1) The strengths of the pupil.

14 (2) The concerns of the parents or guardians for enhancing the  
15 education of the pupil.

16 (3) The results of the initial assessment or most recent  
17 assessment of the pupil.

18 (4) The academic, developmental, and functional needs of the  
19 child.

20 (b) The individualized education program team shall do the  
21 following:

22 (1) In the case of a pupil whose behavior impedes his or her  
23 learning or that of others, consider the use of positive behavioral  
24 interventions and supports, and other strategies, to address that  
25 behavior.

26 (2) In the case of a pupil with ~~limited-English~~ *limited English*  
27 proficiency, consider the language needs of the pupil as those needs  
28 relate to the pupil's individualized education program.

29 (3) In the case of a pupil who is blind or visually impaired,  
30 provide for instruction in braille, and the use of braille, unless the  
31 individualized education program team determines, after an  
32 assessment of the pupil's reading and writing skills, needs, and  
33 appropriate reading and writing media, including an assessment  
34 of the pupil's future needs for instruction in braille or the use of  
35 braille, that instruction in braille or the use of braille is not  
36 appropriate for the pupil.

37 (4) Consider the communication needs of the pupil, and in the  
38 case of a pupil who is deaf or hard of hearing, consider the pupil's  
39 language and communication needs, opportunities for direct  
40 communications with peers and professional personnel in the

1 pupil's language and communication mode, academic level, and  
2 full range of needs, including opportunities for direct instruction  
3 in the pupil's language and communication mode.

4 (5) Consider whether the pupil requires assistive technology  
5 devices and services as defined in Section 1401(1) and (2) of Title  
6 20 of the United States Code.

7 (c) If, in considering the special factors described in subdivisions  
8 (a) and (b), the individualized education program team determines  
9 that a pupil needs a particular device or service, including an  
10 intervention, accommodation, or other program modification, in  
11 order for the pupil to receive a free appropriate public education,  
12 the individualized education program team shall include a statement  
13 to that effect in the pupil's individualized education program.

14 (d) The individualized education program team shall review the  
15 pupil's individualized education program periodically, but not less  
16 frequently than annually, to determine whether the annual goals  
17 for the pupil are being achieved, and revise the individualized  
18 education program, as appropriate, to address among other matters  
19 the following:

20 (1) ~~Any~~ A lack of expected progress toward the annual goals  
21 and in the general education curriculum, where appropriate.

22 (2) The results of any reassessment conducted pursuant to  
23 Section 56381.

24 (3) Information about the pupil provided to, or by, the parents  
25 or guardians, as described in subdivision (b) of Section 56381.

26 (4) The pupil's anticipated needs.

27 (5) Any other relevant matter.

28 (e) A regular education teacher of the pupil, who is a member  
29 of the individualized education program team, shall participate,  
30 *consistent with Section 1414(d)(1)(C) of Title 20 of the United*  
31 *States Code*, in the review and revision of the individualized  
32 education program of the pupil—~~consistent with Section~~  
33 ~~1414(d)(1)(C) of Title 20 of the United States Code.~~

34 (f) The parent or guardian shall have the right to present  
35 information to the individualized education program team in person  
36 or through a representative and the right to participate in meetings,  
37 relating to eligibility for special education and related services,  
38 recommendations, and program planning.

39 (g) (1) Notwithstanding Section 632 of the Penal Code, the  
40 parent or guardian; or local educational agency shall have the right

1 to record electronically the proceedings of individualized education  
2 program team meetings on an audiotape recorder. The parent or  
3 guardian; or local educational agency shall notify the members of  
4 the individualized education program team of ~~their~~ *his, her, or its*  
5 intent to record a meeting at least 24 hours prior to the meeting.  
6 If the local educational agency initiates the notice of intent to  
7 audiotape record a meeting and the parent or guardian objects or  
8 refuses to attend the meeting because it will be tape recorded, the  
9 meeting shall not be recorded on an audiotape recorder.

10 (2) The Legislature hereby finds as follows:

11 (A) Under federal law, audiotape recordings made by a local  
12 educational agency are subject to the federal Family Educational  
13 Rights and Privacy Act *of 1974* (20 U.S.C. Sec. 1232g), and are  
14 subject to the confidentiality requirements of the regulations under  
15 Sections 300.610 to 300.626, inclusive, of Part 34 of the Code of  
16 Federal Regulations.

17 (B) Parents or guardians have the right, pursuant to Sections  
18 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal  
19 Regulations, to do all of the following:

20 (i) Inspect and review the tape recordings.

21 (ii) Request that the tape recordings be amended if the parent  
22 or guardian believes that they contain information that is inaccurate,  
23 misleading, or in violation of the rights of privacy or other rights  
24 of the individual with exceptional needs.

25 (iii) Challenge, in a hearing, information that the parent or  
26 guardian believes is inaccurate, misleading, or in violation of the  
27 individual's rights of privacy or other rights.

28 (h) It is the intent of the Legislature that the individualized  
29 education program team meetings be nonadversarial and convened  
30 solely for the purpose of making educational decisions for the good  
31 of the individual with exceptional needs.

32 SEC. 62. Section 56342.1 of the Education Code is amended  
33 to read:

34 56342.1. Before a local educational agency places an individual  
35 with exceptional needs in, or refers an individual to, a nonpublic,  
36 nonsectarian school pursuant to Section 56365, the district, special  
37 education local plan area, or county office *of education* shall initiate  
38 and conduct a meeting to develop an individualized education  
39 program in accordance with Sections 56341.1 and 56345 and in



1 accordance with Section ~~300.325(a)(1) and (2)~~ *300.325(a)* of Title  
2 34 of the Code of Federal Regulations.

3 SEC. 63. Section 56363.5 of the Education Code is amended  
4 to read:

5 56363.5. Local educational agencies may seek, either directly  
6 or through the pupil's parents or guardians, reimbursement from  
7 insurance companies to cover the costs of related services, in  
8 accordance with Section ~~300.154(d)~~ *300.154(d)* to (h), inclusive,  
9 of the Code of Federal Regulations.

10 SEC. 64. Section 56366.1 of the Education Code is amended  
11 to read:

12 56366.1. (a) A nonpublic, nonsectarian school or agency that  
13 seeks certification shall file an application with the Superintendent  
14 on forms provided by the department and include the following  
15 information on the application:

16 (1) A description of the special education and designated  
17 instruction and services provided to individuals with exceptional  
18 needs if the application is for nonpublic, nonsectarian school  
19 certification.

20 (2) A description of the designated instruction and services  
21 provided to individuals with exceptional needs if the application  
22 is for nonpublic, nonsectarian agency certification.

23 (3) A list of appropriately qualified staff, a description of the  
24 credential, license, or registration that qualifies each staff member  
25 rendering special education or designated instruction and services  
26 to do so, and copies of their credentials, licenses, or certificates of  
27 registration with the appropriate state or national organization that  
28 has established standards for the service rendered.

29 (4) An annual operating budget.

30 (5) Affidavits and assurances necessary to comply with all  
31 applicable federal, state, and local laws and regulations that include  
32 criminal record summaries required of all nonpublic, nonsectarian  
33 school or agency personnel having contact with minor children  
34 under Section 44237.

35 (b) (1) The applicant shall provide the special education local  
36 plan area in which the applicant is located with the written  
37 notification of its intent to seek certification or renewal of its  
38 certification. The applicant shall submit on a form, developed by  
39 the department, a signed verification by local educational agency  
40 representatives that they have been notified of the intent to certify

1 or renew certification. The verification shall include a statement  
2 that representatives of the local educational agency for the area in  
3 which the applicant is located have had the opportunity to review  
4 the application at least 60 calendar days prior to submission of an  
5 initial application to the Superintendent, or at least 30 calendar  
6 days prior to submission of a renewal application to the  
7 Superintendent. The signed verification shall provide assurances  
8 that local educational agency representatives have had the  
9 opportunity to provide input on all required components of the  
10 application.

11 (2) If the applicant has not received a response from the local  
12 educational agency 60 calendar days from the date of the return  
13 receipt for initial applications or 30 calendar days from the date  
14 of the return receipt for renewal applications, the applicant may  
15 file the application with the Superintendent. A copy of the return  
16 receipt shall be included with the application as verification of  
17 notification efforts to the local educational agency.

18 (3) The department shall mail renewal application materials to  
19 certified nonpublic, nonsectarian schools and agencies at least 120  
20 days prior to the date their current certification expires.

21 (c) If the applicant operates a facility or program on more than  
22 one site, each site shall be certified.

23 (d) If the applicant is part of a larger program or facility on the  
24 same site, the Superintendent shall consider the effect of the total  
25 program on the applicant. A copy of the policies and standards for  
26 the nonpublic, nonsectarian school or agency and the larger  
27 program shall be available to the Superintendent.

28 (e) Prior to certification, the Superintendent shall conduct an  
29 onsite review of the facility and program for which the applicant  
30 seeks certification. The Superintendent may be assisted by  
31 representatives of the special education local plan area in which  
32 the applicant is located and a nonpublic, nonsectarian school or  
33 agency representative who does not have a conflict of interest with  
34 the applicant. The Superintendent shall conduct an additional onsite  
35 review of the facility and program within three years of the  
36 effective date of the certification, unless the Superintendent  
37 conditionally certifies the school or agency or unless the  
38 Superintendent receives a formal complaint against the school or  
39 agency. In the latter two cases, the Superintendent shall conduct  
40 an onsite review at least annually.

1 (f) The Superintendent shall make a determination on an  
2 application within 120 days of receipt of the application and shall  
3 certify, conditionally certify, or deny certification to the applicant.  
4 If the Superintendent fails to take one of these actions within 120  
5 days, the applicant is automatically granted conditional certification  
6 for a period terminating on August 31, of the current school year.  
7 If certification is denied, the Superintendent shall provide reasons  
8 for the denial. The Superintendent may certify the school or agency  
9 for a period of not longer than one year.

10 (g) Certification becomes effective on the date the nonpublic,  
11 nonsectarian school or agency meets all the application  
12 requirements and is approved by the Superintendent. Certification  
13 may be retroactive if the school or agency met all the requirements  
14 of this section on the date the retroactive certification is effective.  
15 Certification expires on December 31 of the terminating year.

16 (h) The Superintendent annually shall review the certification  
17 of each nonpublic, nonsectarian school and agency. For this  
18 purpose, a certified school or agency annually shall update its  
19 application between August 1 and October 31, unless the board  
20 grants a waiver pursuant to Section 56101. The Superintendent  
21 may conduct an onsite review as part of the annual review.

22 (i) (1) The Superintendent shall conduct an investigation of a  
23 nonpublic, nonsectarian school or agency onsite at any time without  
24 prior notice if there is substantial reason to believe that there is an  
25 immediate danger to the health, safety, or welfare of a child. The  
26 Superintendent shall document the concern and submit it to the  
27 nonpublic, nonsectarian school or agency at the time of the onsite  
28 investigation. The Superintendent shall require a written response  
29 to any noncompliance or deficiency found.

30 (2) With respect to a nonpublic, nonsectarian school, the  
31 Superintendent shall conduct an investigation, which may include  
32 an unannounced onsite visit, if the Superintendent receives  
33 evidence of a significant deficiency in the quality of educational  
34 services provided, a violation of Section 56366.9, or  
35 noncompliance with the policies expressed by subdivision (b) of  
36 Section 1501 of the Health and Safety Code by the nonpublic,  
37 nonsectarian school. The Superintendent shall document the  
38 complaint and the results of the investigation and shall provide  
39 copies of the documentation to the complainant, the nonpublic,  
40 nonsectarian school, and the contracting local educational agency.

(3) Violations or noncompliance documented pursuant to paragraph (1) or (2) shall be reflected in the status of the certification of the school, at the discretion of the Superintendent, pending an approved plan of correction by the nonpublic, nonsectarian school. The department shall retain for a period of 10 years; all violations pertaining to certification of the nonpublic, nonsectarian school or agency.

(j) The Superintendent shall monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the ~~standard-focused~~ *standard-focused* instructional materials used, of an existing certified nonpublic, nonsectarian school or agency on a three-year cycle, as follows:

(1) The nonpublic, nonsectarian school or agency shall complete a self-review in year one.

(2) The Superintendent shall conduct an onsite review of the nonpublic, nonsectarian school or agency in year two.

(3) The Superintendent shall conduct a followup visit to the nonpublic, nonsectarian school or agency in year three.

(k) (1) Notwithstanding any other provision of law, the Superintendent shall not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other nonspecial education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek certification.

(2) The notification shall occur no later than the December 1 prior to the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

(A) The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.

(B) The location of the proposed program or facility.

(C) The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school,

1 or other nonspecial education program, the current school services  
2 including special education and related services provided for these  
3 pupils, and the specific program of special education and related  
4 services to be provided under the proposed program.

5 (D) The reason for the proposed change in services.

6 (E) The number of staff who will provide special education and  
7 designated instruction and services and hold a current valid  
8 California credential or license in the service rendered.

9 (3) In addition to the requirements in subdivisions (a) to (f),  
10 inclusive, the Superintendent shall require and consider the  
11 following in determining whether to certify a nonpublic,  
12 nonsectarian school or agency as described in this subdivision:

13 (A) A complete statement of the information required as part  
14 of the notice under paragraph (1).

15 (B) Documentation of the steps taken in preparation for the  
16 conversion to a nonpublic, nonsectarian school or agency, including  
17 information related to changes in the population to be served and  
18 the services to be provided pursuant to each pupil's individualized  
19 education program.

20 (4) Notwithstanding any other provision of law, the certification  
21 becomes effective no earlier than July 1 if the school or agency  
22 provided the notification required pursuant to paragraph (1).

23 ~~(l) (1) Commencing July 1, 2006, notwithstanding~~  
24 *Notwithstanding* any other provision of law, the Superintendent  
25 shall not certify or renew the certification of a nonpublic,  
26 nonsectarian school or agency, unless all of the following  
27 conditions are met:

28 (A) The entity operating the nonpublic, nonsectarian school or  
29 agency maintains separate financial records for each entity that it  
30 operates, with each nonpublic, nonsectarian school or agency  
31 identified separately from any licensed children's institution that  
32 it operates.

33 (B) The entity submits an annual budget that identifies the  
34 projected costs and revenues for each entity and demonstrates that  
35 the rates to be charged are reasonable to support the operation of  
36 the entity.

37 (C) The entity submits an ~~entity-wide~~ *entitywide* annual audit  
38 that identifies its costs and revenues, by entity, in accordance with  
39 generally accepted accounting and auditing principles. The audit  
40 shall clearly document the amount of moneys received and

1 expended on the education program provided by the nonpublic,  
2 nonsectarian school.

3 (D) The relationship between various entities operated by the  
4 same entity are documented, defining the responsibilities of the  
5 entities. The documentation shall clearly identify the services to  
6 be provided as part of each program, for example, the residential  
7 or medical program, the mental health program, or the educational  
8 program. The entity shall not seek funding from a public agency  
9 for a service, either separately or as part of a package of services,  
10 if the service is funded by another public agency, either separately  
11 or as part of a package of services.

12 (2) For purposes of this section, ~~the term~~ “licensed children’s  
13 institution” has the same meaning as it is defined by Section  
14 56155.5.

15 (m) The school or agency shall be charged a reasonable fee for  
16 certification. The Superintendent may adjust the fee annually  
17 commensurate with the statewide average percentage inflation  
18 adjustment computed for revenue limits of unified school districts  
19 with greater than 1,500 units of average daily attendance if the  
20 percentage increase is reflected in the district revenue limit for  
21 inflation purposes. For purposes of this section, the base fee shall  
22 be the following:

23		
24	(1) 1- 5 pupils.....	\$ 300
25	(2) 6-10 pupils.....	500
26	(3) 11-24 pupils.....	1,000
27	(4) 25-75 pupils.....	1,500
28	(5) 76 pupils and over.....	2,000
29		

30 The school or agency shall pay this fee when it applies for  
31 certification and when it updates its application for annual renewal  
32 by the Superintendent. The Superintendent shall use these fees to  
33 conduct onsite reviews, which may include field experts. No fee  
34 shall be refunded if the application is withdrawn or is denied by  
35 the Superintendent.

36 (n) (1) Notwithstanding any other provision of law, only those  
37 nonpublic, nonsectarian schools and agencies that provide special  
38 education and designated instruction and services utilizing staff  
39 who hold a certificate, permit, or other document equivalent to  
40 that which staff in a public school are required to hold in the service

1 rendered are eligible to receive certification. Only those nonpublic,  
2 nonsectarian schools or agencies located outside of California that  
3 employ staff who hold a current valid credential or license to render  
4 special education and related services as required by that state shall  
5 be eligible to be certified.

6 (2) The board shall develop regulations to implement this  
7 subdivision.

8 (o) In addition to meeting the standards adopted by the board,  
9 a nonpublic, nonsectarian school or agency shall provide written  
10 assurances that it meets all applicable standards relating to fire,  
11 health, sanitation, and building safety.

12 SEC. 65. Section 56426.6 of the Education Code is amended  
13 to read:

14 56426.6. (a) Early education services shall be provided by ~~the~~  
15 a local educational agency through a transdisciplinary team  
16 consisting of a group of professionals from various disciplines,  
17 agencies, and parents who shall share their expertise and services  
18 to provide appropriate services for infants and their families. Each  
19 team member shall be responsible for providing and coordinating  
20 early education services for one or more infants and their families,  
21 and shall serve as a consultant to other team members and as a  
22 provider of appropriate related services to other infants in the  
23 program.

24 (b) Credentialed personnel with expertise in vision or hearing  
25 impairments shall be made available by the local educational  
26 agency to early education programs serving infants identified in  
27 accordance with subdivision (a), (b), or (d) of Section 3030 of  
28 Title 5 of the California Code of Regulations, and shall be the  
29 primary providers of services under those programs whenever  
30 possible.

31 (c) Transdisciplinary teams may include, but need not be limited  
32 to, qualified persons from the following disciplines:

- 33 (1) Early childhood special education.  
34 (2) Speech and language therapy.  
35 (3) Nursing, with a skill level not less than that of a registered  
36 nurse.  
37 (4) Social work, psychology, or mental health.  
38 (5) Occupational therapy.  
39 (6) Physical therapy.  
40 (7) Audiology.

1 (8) ~~Parent-to-parent~~ *Parent-to-parent* support.

2 (d) A person who is authorized by the local educational agency  
3 to provide early education or related services to infants shall have  
4 appropriate experience in normal and atypical infant development  
5 and an understanding of the unique needs of families of infants  
6 with exceptional needs, or, absent that experience and  
7 understanding, shall undergo a comprehensive training plan for  
8 that purpose, which plan shall be developed and implemented as  
9 part of the staff development component of the local plan for early  
10 education services.

11 SEC. 66. Section 56431 of the Education Code is amended to  
12 read:

13 56431. The Superintendent shall develop procedures and  
14 criteria to enable a local educational agency to contract with private  
15 nonprofit preschools or child development centers to provide  
16 special education and related services to ~~infant~~ *infants* and  
17 preschool age individuals with exceptional needs. The criteria shall  
18 include minimum standards that the private, nonprofit preschool  
19 or center shall be required to meet.

20 SEC. 67. Section 56456 of the Education Code is amended to  
21 read:

22 56456. It is the intent of the Legislature that local educational  
23 agencies may use any state or local special education funds for  
24 approved vocational programs, services, and activities to satisfy  
25 the excess-cost ~~matching~~ *cost-matching* requirements for receipt  
26 of federal vocational education funds for individuals with  
27 exceptional needs.

28 SEC. 68. Section 56476 of the Education Code is amended to  
29 read:

30 56476. The Governor or designee of the Governor, in  
31 accordance with Section 1412(a)(12) of Title 20 of the United  
32 States Code and Section 300.154 of Title 34 of the Code of Federal  
33 Regulations, shall ensure that each agency under the Governor's  
34 jurisdiction enters into an interagency agreement with the  
35 ~~superintendent~~ *Superintendent* to ensure that all services that are  
36 needed to ensure a free appropriate public education are provided.

37 SEC. 69. Section 56504 of the Education Code is amended to  
38 read:

39 56504. The parent shall have the right and opportunity to  
40 examine all school records of his or her child and to receive copies



pursuant to this section and to Section 49065 within five business days after the request is made by the parent, either orally or in writing. The public agency shall comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program or any hearing pursuant to Section ~~300.507~~, 300.121, 300.301, ~~or~~ 300.304, *or 300.507* of Title 34 of the Code of Federal Regulations or resolution session pursuant to Section 300.510 of Title 34 of the Code of Federal Regulations and in no case more than five business days after the request is made orally or in writing. The parent shall have the right to a response from the public agency to reasonable requests for explanations and interpretations of the records. If ~~any~~ *a* school record includes information on more than one pupil, the parents of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information. A public agency shall provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency. A public agency may charge no more than the actual cost of reproducing the records, but if this cost effectively prevents the parent from exercising the right to receive the copy or copies, the copy or copies shall be reproduced at no cost.

SEC. 70. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized education program for an individual residing in a state hospital who is eligible for services under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a state hospital shall include on its interdisciplinary team a representative of the local educational agency in which the state hospital is located, and the individual's state hospital teacher, depending on whether the state hospital is otherwise working with the local educational agency for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education local plan area that is required by this section to provide a representative from the district or special education local plan area does not do so, the county office *of education* shall provide a representative.

1 (b) The state hospital shall reimburse the local educational  
2 agency, ~~as the case may be~~, for the costs, including salary, of  
3 providing the representative.

4 (c) Once the individual is enrolled in the community program,  
5 the local educational agency providing special education shall be  
6 responsible for reviewing and revising the individualized education  
7 program with the participation of a representative of the state  
8 hospital and the parent. The public agency responsible for the  
9 individualized education program shall be responsible for all  
10 individual protections, including notification and due process.

11 SEC. 71. Section 66018.55 of the Education Code is amended  
12 to read:

13 66018.55. (a) As used in this section, “college and university”  
14 ~~shall include~~ *includes* all institutions of public higher education  
15 and all independent institutions of higher education.

16 (b) The Office of Privacy Protection in the Department of  
17 Consumer Affairs shall establish a task force to conduct a review  
18 of the use by all colleges and universities of social security numbers  
19 in order to recommend practices to minimize the collection, use,  
20 storage, and retention of social security numbers in relation to  
21 academic and operational needs and applicable legal requirements.

22 (c) The task force shall be known as the “College and University  
23 Social Security Number Task Force.” The Office of Privacy  
24 Protection shall determine the composition of the task force, which  
25 shall include, but not be limited to, all of the following:

26 (1) Two representatives from each of the three institutions of  
27 public higher education.

28 (2) Two representatives of the California Association of  
29 Independent Colleges and Universities.

30 (3) Two representatives each from two organizations devoted  
31 to the protection of personal privacy.

32 (4) One representative from a national organization devoted to  
33 the management of ~~informational~~ *information* technology in higher  
34 education.

35 (5) One representative from the business community with  
36 expertise in technological solutions to privacy concerns.

37 (6) One representative each from the Assembly Committee on  
38 Judiciary and the Senate Committee on Judiciary.

39 (d) The task force shall seek input, as deemed necessary and  
40 appropriate, from all of the following:

1 (1) Representatives of organizations with expertise in technical  
2 policy and practices of Internet disclosure, ~~private~~ *privacy* policy  
3 relevant to Internet disclosure, and fostering public integrity and  
4 accountability.

5 (2) The constituencies of the college and university  
6 communities, including students, staff, and faculty.

7 (e) The task force shall review and make recommendations to  
8 minimize the collection, use, storage, and retention of social  
9 security numbers by California colleges and universities and shall  
10 include, but not be limited to, all of the following:

11 (1) A survey of best practices at colleges and universities and  
12 the costs of implementing those best practices.

13 (2) The necessary use and protection of social security numbers  
14 for all of the following:

15 (A) Research purposes.

16 (B) Academic purposes, including, but not limited to, academic  
17 research, admission, financial aid, and other related operational  
18 uses.

19 (C) Operational uses by academic medical centers, including,  
20 but not limited to, patient identification, tracking, and care.

21 (D) Business purposes, including, but not limited to, the  
22 provision of employee benefits, tax purposes, loan programs, and  
23 other requirements imposed by current state and federal statutes  
24 and regulations.

25 (E) ~~Any other~~ *Another* operational need of the college or  
26 university.

27 (3) Current personal privacy protections provided to students,  
28 applicants, staff, and faculty of colleges and universities.

29 (4) Existing state and federal legal requirements, including  
30 regulatory requirements, mandating the use of social security  
31 numbers at colleges and universities.

32 (5) The possible use of personal identifiers or other substitutes  
33 for social security numbers that protect personal information and  
34 meet the operational needs of colleges and universities.

35 (6) The cost of funding any recommendations presented by the  
36 task force, including those that are of minimal cost and can be  
37 implemented immediately and those that require additional funding  
38 or time to implement.

39 (f) The task force shall commence meetings no later than May  
40 1, 2008.

(g) (1) On or before July 1, 2010, the task force shall submit a final report of its findings and recommendations to the Office of Privacy Protection, and to the Assembly Committee on Judiciary and the Senate Committee on Judiciary.

(2) The final report shall also include a list of the existing uses of social security numbers common among colleges and universities for routine operations and compliance with state and federal laws.

(3) The findings and recommendations of the task force shall be informational only and shall not be binding on any college or university.

SEC. 72. The heading of Part 40.5 (commencing with Section 67500) of Division 5 of Title 3 of the Education Code is amended to read:

PART 40.5. ~~CAPTIAL~~-CAPITAL OUTLAY REQUIREMENTS

SEC. 73. Section 69551 of the Education Code is amended to read:

69551. (a) The Legislature finds and declares all of the following:

(1) The Cash for College Program has successfully established local regional partnerships that annually provide hands-on help in filling out financial aid forms necessary to receive financial assistance for college. This program was initiated by private foundations and the Student Aid Commission in 2002 with the goal of increasing the number of students who successfully complete the financial aid process and enroll in college. In 2007, the Cash for College Program succeeded in serving over 20,000 students and their families in 44 of the 58 counties in California, thereby helping the state to access tens of millions of dollars in federal Pell Grant financial aid for low-income students and increasing the number of students participating in the state's Cal Grant program.

(2) The intersegmental cooperative nature of the Cash for College Program has proved to be a highly effective mechanism to coordinate existing services and to foster the cooperation of the various educational segments, community, and business partners involved.

1 (3) The Cash for College Program has been successful because  
2 of the financial and volunteer contributions of local partners in  
3 private business and industry, the financial aid, admissions, and  
4 outreach communities, and student groups. Additional funding has  
5 been provided through these local and regional partnerships, and  
6 through one million five hundred thousand dollars (\$1,500,000)  
7 in private foundation grant funds that have supported the initial  
8 development of the program, as well as funded local scholarships  
9 offered to workshop participants who complete the financial aid  
10 process by the state filing deadline.

11 (4) The Cash for College Program has assisted high school and  
12 community college students whose families were unfamiliar with  
13 the financial aid process. The program focuses on assisting students  
14 and their families who are ~~first~~ *first-* or ~~second-generation~~  
15 *second-generation* college-bound students who have little or no  
16 access to college advising because of limited resources at the  
17 schoolsite or the perception that college is not an option.

18 (5) The Cash for College Program seeks to provide all California  
19 students who desire to attend college the opportunity to enroll by  
20 providing tangible assistance in accessing the available state and  
21 federal resources to make higher education possible.

22 (6) A college or postsecondary education is a requirement for  
23 a working wage job. The wage disparity between a high school  
24 graduate and a college graduate is one million dollars (\$1,000,000)  
25 over an individual's lifespan.

26 (7) California reflects the ethnic and cultural diversity of today's  
27 world. Evidence of this change is most pronounced within our  
28 public elementary and secondary education system. As California  
29 continues into the 21st century, there is no single group that  
30 represents a majority of elementary and secondary enrollment.  
31 These changing demographics present great challenges and great  
32 opportunities.

33 (8) California must invest in higher education and in the future  
34 of its young people so they can acquire skills and knowledge  
35 necessary to continue the state's economic recovery.

36 (9) The Cash for College Program provides access to the college  
37 financial aid process for students of varied backgrounds and  
38 socioeconomic status.

39 (b) (1) Beginning January 1, 2008, the Cash for College  
40 Program is established and is administered by the Student Aid

1 Commission, in partnership with private business and industry and  
2 local community and educational organizations. The Student Aid  
3 Commission may allocate funds for support of local Cash for  
4 College financial aid workshop efforts that are designed to  
5 accomplish the following goals:

6 (A) Targeted outreach to, and assistance for, low-income and  
7 ~~first-generation~~ *first-generation* college-bound students with state  
8 and federal financial aid applications.

9 (B) Targeted outreach to, and assistance for, students who are  
10 enrolled in schools or geographic regions with low college  
11 eligibility or participation rates, with state and federal financial  
12 aid applications.

13 (2) The projects and organizations funded under this article shall  
14 implement the following activities:

15 (A) Organize and conduct free local and regional workshops  
16 that help students and families to fill out the Free Application for  
17 Federal Student Aid (FAFSA) and the Cal Grant GPA verification  
18 form required for Cal Grants.

19 (B) Convene advisory board meetings to develop regional  
20 partnerships with local partners in private business and industry,  
21 admissions and outreach communities, and student groups, to foster  
22 financial and volunteer contributions.

23 (c) The Student Aid Commission shall, by December 1 of each  
24 year, provide a report to the fiscal and policy committees of the  
25 Legislature on the Cash for College Program detailing program  
26 data, expenditures, and the findings of an independent evaluation  
27 on the extent to which program goals have been met. Program data  
28 shall include the number of completed FAFSA applications, the  
29 number of submitted grade point average verifications, and the  
30 number of Cal Grant recipients using their Cal Grant *awards* at  
31 California postsecondary institutions.

32 (d) The Student Aid Commission shall contract with an external  
33 evaluator to conduct the independent evaluation.

34 (e) (1) The commission may accept voluntary contributions or  
35 donations in cash to pay for the costs of implementing the program  
36 pursuant to this article. Voluntary contributions shall be deposited  
37 into the Cash for College Fund, which is hereby created in the  
38 State Treasury. Only moneys contributed or donated for the  
39 purposes of this article may be deposited into the fund. The fund  
40 shall be credited with all investment income earned by moneys in

1 the fund. ~~All~~ *The* moneys received in contributions or donations  
2 for the purposes of this article are not part of the General Fund as  
3 defined in Section 16300 of the Government Code. Voluntary  
4 contributions or donations are special funds held in trust for  
5 purposes of meeting the purposes of this article. Notwithstanding  
6 Section 13340 of the Government Code, moneys in the fund from  
7 voluntary contributions or donations are hereby continuously  
8 appropriated to the commission without regard to fiscal year for  
9 the purposes enumerated in this article.

10 (2) Additional funds may be appropriated in the annual Budget  
11 Act for the purposes of this article.

12 (f) (1) As used in this subdivision, “regional coordinating  
13 organization” means a coalition of entities led by a designated  
14 organization, which may include nonprofit organizations, local  
15 education or other government agencies, or public or private higher  
16 education institutions.

17 (2) The Student Aid Commission shall allocate funds to regional  
18 coordinating organizations to plan, coordinate, or conduct Cash  
19 for College workshop series within specified regions within the  
20 state.

21 (3) The Student Aid Commission shall require a regional  
22 coordinating organization to contribute equal or greater resources  
23 to match the Cash for College funds allocated to it by the  
24 commission. Funds allocated to a regional coordinating  
25 organization under this subdivision shall be based on demonstrated  
26 ability to contribute equal or greater matching resources or funds.  
27 The Student Aid Commission may require advance payment, if it  
28 determines that it is necessary to ensure that funds provided  
29 pursuant to this article are available each year before the start of  
30 the program.

31 (4) The Student Aid Commission may partner with regional  
32 coordinating organizations or other entities to facilitate additional  
33 nonstate funding or donations of property, or both, for the Cash  
34 for College Program.

35 (5) Notwithstanding Section 11005 of the Government Code,  
36 the Student Aid Commission may accept gifts of personal property  
37 without approval of the Director of Finance.

38 (g) The commission may use the moneys appropriated for the  
39 program, including reasonable administrative costs, marketing,  
40 and external evaluation. Administrative costs shall include

1 appropriate staffing to support the program, including, but not  
2 limited to, a Cash for College ~~Coordinator~~ *coordinator*. The  
3 commission shall annually establish the total amount of funding  
4 to assist regional coordinating organizations. Allocation of funds  
5 shall be established based upon the best use of funding for that  
6 year, as determined by the commission in consultation with a Cash  
7 for College statewide advisory board ~~which~~ *that* may include, but  
8 is not limited to, partners in private business and industry,  
9 admissions ~~and~~, outreach communities, and student groups.

10 SEC. 74. Section 71095 of the Education Code is amended to  
11 read:

12 71095. (a) The chancellor's office, in consultation with the  
13 Governor's Office of Emergency Services and the Office of  
14 Homeland Security, shall, by January 1, 2009, develop emergency  
15 preparedness standards and guidelines to assist community college  
16 districts and campuses in the event of a natural disaster, hazardous  
17 condition, or terrorist activity on or around a community college  
18 campus.

19 (b) The standards and guidelines shall be developed in  
20 accordance with the Standardized Emergency Management System  
21 and the National Incident Management System, and shall be  
22 reviewed by the Governor's Office of Emergency Services in a  
23 manner that is consistent with existing policy. In developing the  
24 standards and guidelines, the chancellor's office shall consider,  
25 but is not limited to, all of the following components:

26 (1) Information on establishing a campus emergency  
27 management team.

28 (2) Provisions regarding overview training for every employee  
29 within one year of commencement of employment.

30 (3) Information on specialized training for employees who may  
31 be designated as part of an emergency management team.

32 (4) Information on preparedness, prevention, response, recovery,  
33 and mitigation policies and procedures.

34 (5) Information on coordinating with the appropriate local, state,  
35 *and* federal government authorities, and nongovernmental entities  
36 on comprehensive emergency management and preparedness  
37 activities.

38 SEC. 75. Section 13001 of the Elections Code is amended to  
39 read:



1 13001. ~~(a)~~—All expenses authorized and necessarily incurred  
2 in the preparation for, and conduct of, elections as provided in this  
3 code shall be paid from the county treasuries, except that when an  
4 election is called by the governing body of a city the expenses  
5 shall be paid from the treasury of the city. All payments shall be  
6 made in the same manner as other county or city expenditures are  
7 made. The elections official, in providing the materials required  
8 by this division, need not utilize the services of the county or city  
9 purchasing agent.

10 ~~(b) This section shall become operative on January 1, 2008.~~

11 SEC. 76. Section 1520 of the Financial Code is amended to  
12 read:

13 1520. It is the intent of the Legislature that the provisions of  
14 this article, insofar as they are contained in the regulations  
15 regarding fiduciary activities of national banks (Part 9  
16 (commencing with Section 9.1) of Title 12 of the Code of Federal  
17 Regulations) of the Office of the Comptroller of the Currency,  
18 conform, and be interpreted by anyone construing the provisions  
19 of this article to so conform, to those regulations, any rule or  
20 interpretation promulgated thereunder by the Office of the  
21 Comptroller of the Currency, and to any interpretation issued by  
22 an official or employee of the Office of *the* Comptroller of the  
23 Currency duly authorized to issue the interpretation.

24 SEC. 77. Section 50700 of the Financial Code is amended to  
25 read:

26 50700. (a) ~~No~~—A residential mortgage lender, or ~~any~~ a person  
27 or employee acting under the authority of a residential mortgage  
28 lender's license, ~~may~~ *shall not* provide brokerage services to a  
29 borrower, except as provided in subdivision (c).

30 (b) "Brokerage services" means either of the following:

31 (1) Obtaining or attempting to obtain, on behalf of a borrower,  
32 a residential mortgage loan, as defined in subdivision ~~(n)~~ (o) of  
33 Section 50003, secured by residential real estate, as defined in  
34 subdivision ~~(s)~~ (t) of Section 50003, made with the funds of another  
35 institutional lender, as defined in paragraphs (1), (2), and (4) of  
36 subdivision (j) of Section 50003, and closed in the name of that  
37 lender, for a fee paid by the borrower or the institutional lender.

38 (2) Obtaining or attempting to obtain, on behalf of a borrower,  
39 a residential mortgage loan, as defined in subdivision ~~(n)~~ (o) of  
40 Section 50003, secured by residential real estate, as defined in

1 subdivision~~(s)~~ (t) of Section 50003, made with the funds of another  
2 institutional lender, as defined in paragraphs (1), (2), and (4) of  
3 ~~subdivision~~ subdivision (j) of Section 50003, but closed in the name  
4 of the licensee, for a fee paid by the borrower or the institutional  
5 lender.

6 (c) A residential mortgage lender may provide brokerage  
7 services under the authority of its license, if the lender first enters  
8 into a written brokerage agreement with the borrower that satisfies  
9 the requirements of Section 50701.

10 (d) This chapter does not authorize a licensee to do any of the  
11 following:

12 (1) Provide brokerage services through independent contractors.

13 (2) Obtain or attempt to obtain for a borrower a residential  
14 mortgage loan that is a “high cost mortgage,” referred to in Section  
15 152(aa)(1) of the Home Ownership and Equity Protection Act of  
16 1994, as amended (15 U.S.C. Sec. 1602 (aa)).

17 (3) Hold itself out to borrowers, through advertising~~by any~~  
18 ~~means~~, as a mortgage broker, rather than a residential mortgage  
19 lender. However, a licensee shall disclose its status as a broker or  
20 agent when that disclosure is required by law.

21 (4) Perform activity subject to Section 10131 of the Business  
22 and Professions Code, except activities authorized by this division.

23 SEC. 78. Section 8235 of the Fish and Game Code is amended  
24 to read:

25 8235. (a) The owner of a permitted vessel, or that owner’s  
26 agent, may apply for renewal of the permit annually on or before  
27 April 30, upon payment of the fees established under subdivision  
28 (b), without penalty. Upon receipt of the application and fees, the  
29 department shall issue the permit for use of the permitted vessel  
30 in the subsequent permit year only to the owner of the permitted  
31 vessel.

32 (b) The department shall fix the annual fee for the renewal of  
33 the permit in an amount it determines to be necessary to pay the  
34 reasonable costs of implementing and administering this article.

35 (c) If an owner to whom a permit has been issued, or that  
36 owner’s agent, applies for renewal of the permit, the application  
37 for renewal shall be received or, if mailed, postmarked, on or before  
38 April 30. An application received or, if mailed, postmarked, after  
39 April 30~~will~~ shall be assessed a late fee subject to Section 7852.2.

1 The department shall issue the permit for use of the permitted  
2 vessel in the subsequent permit year.

3 (d) The department shall suspend ~~any late fees~~ *a late fee*  
4 otherwise due under subdivision (c) and shall issue a permit for  
5 use of the permitted vessel in the subsequent permit year if the  
6 department is unable to accept applications for renewal of permits  
7 by March 1.

8 (e) Except as provided in subdivision (c), the department shall  
9 not renew a permit for which the application for renewal is not  
10 received, or, if mailed, is received or postmarked after expiration  
11 of the permit.

12 SEC. 79. Section 3352 of the Food and Agricultural Code is  
13 amended to read:

14 3352. (a) The authority shall be governed by a board of  
15 directors, which shall be composed of the Secretary of Food and  
16 Agriculture, the Director of Finance, the Director of General  
17 Services, and four individuals, appointed as provided in paragraph  
18 (1), who are members of the Board of Directors of the California  
19 Exposition and State Fair. The Treasurer and Controller shall be  
20 members of the board of the authority only for the purposes of  
21 hearing and deciding upon matters related to the issuance of  
22 revenue bonds pursuant to this chapter. The Director of Finance  
23 shall serve as chairperson of the authority. All meetings of the  
24 authority shall be open and public.

25 (1) Of the four appointed members of the Board of Directors  
26 of the California Exposition and State Fair, one shall be appointed  
27 by the Speaker of the Assembly, one shall be appointed by the  
28 Senate Committee on Rules, and two shall be appointed by the  
29 Governor.

30 (2) The authority may contract with consultants as approved by  
31 the board of the authority. The authority ~~may~~ *shall* not employ any  
32 other staff.

33 (3) The general manager of the California Exposition and State  
34 Fair may ~~only~~ *only* serve in an advisory capacity to the authority.

35 (b) The authority is a “department” for the purposes of hearings  
36 pursuant to Article 2 (commencing with Section 11180) of Chapter  
37 2 of Part 1 of Division 3 of *Title 2* of the Government Code.

38 SEC. 80. Section 3357 of the Food and Agricultural Code is  
39 amended to read:

1 3357. (a) In leasing, or entering into agreements for the use  
2 of, the State Fair Race Track or other property owned or controlled  
3 by the California Exposition and State Fair, the authority shall  
4 follow the same procedures, as appropriate, as the Department of  
5 General Services follows in leasing or entering into similar  
6 agreements for other state real property. The authority shall also  
7 consult with, and present for comment the lease or agreement to,  
8 the governing bodies of the City and County of Sacramento prior  
9 to awarding the lease or entering into the agreement.

10 (b) Prior to awarding a lease of, or entering into an agreement  
11 for the use of, the State Fair Race Track or other property owned  
12 or controlled by the California Exposition and State Fair, the  
13 authority shall consider all the factors concerning appropriate  
14 capital improvements of the race track, the financing of the race  
15 track, additional racing opportunities, and ~~any~~ *the* use of new or  
16 additional properties or facilities, including, but not limited to, a  
17 grandstand or grandstand improvements, which factors shall be  
18 considered in the award of the lease or entering into the agreement.  
19 The authority shall also consult with, and present for comment the  
20 lease or agreement to, the governing bodies of the City and County  
21 of Sacramento prior to awarding the lease or entering into the  
22 agreement.

23 SEC. 81. Section 20755 of the Food and Agricultural Code is  
24 amended to read:

25 20755. The owner of a recorded brand may, on or before April  
26 ~~30th~~ 30 of any year, pay in advance to the bureau a sum ~~which~~  
27 *that* is a multiple of sixty dollars (\$60). The payment entitles him  
28 or her to use the brand for a minimum of two years, but not to  
29 exceed 10 years, at the rate of thirty dollars (\$30) per year ~~from~~  
30 *on* and after April ~~1st~~ 1 of that year. If the advance payment is  
31 made, biennial renewals for the years within the period for which  
32 advance payment has been made are not required.

33 SEC. 82. Section 3502.5 of the Government Code is amended  
34 to read:

35 3502.5. (a) Notwithstanding Section 3502 ~~or 3502.6~~, ~~or~~ any  
36 other provision of this chapter, or any other law, rule, or regulation,  
37 an agency shop agreement may be negotiated between a public  
38 agency and a recognized public employee organization that has  
39 been recognized as the exclusive or majority bargaining agent  
40 pursuant to reasonable rules and regulations, ordinances, and

enactments, in accordance with this chapter. As used in this chapter, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may ~~only~~ be filed *only* after the recognized employee organization has requested the public agency to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from ~~any~~ *claims, demands a claim, demand*, or other action relating to the public agency’s compliance with the agency fee obligation.

(c) ~~Any~~ *An* employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support ~~any~~ *a* public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund

1 exempt from taxation under Section 501(c)(3) of the Internal  
2 Revenue Code, chosen by the employee from a list of at least three  
3 of these funds, designated in a memorandum of understanding  
4 between the public agency and the public employee organization,  
5 or if the memorandum of understanding fails to designate the funds,  
6 then to ~~any such~~ a fund *of that type* chosen by the employee. Proof  
7 of the payments shall be made on a monthly basis to the public  
8 agency as a condition of continued exemption from the requirement  
9 of financial support to the public employee organization.

10 (d) An agency shop provision in a memorandum of  
11 understanding that is in effect may be rescinded by a majority vote  
12 of all the employees in the unit covered by the memorandum of  
13 understanding, provided that: (1) a request for ~~such a~~ *that type of*  
14 vote is supported by a petition containing the signatures of at least  
15 30 percent of the employees in the unit; (2) the vote is by secret  
16 ballot; *and* (3) the vote may be taken at any time during the term  
17 of the memorandum of understanding, but in no event shall there  
18 be more than one vote taken during that term. Notwithstanding  
19 the above, the public agency and the recognized employee  
20 organization may negotiate, and by mutual agreement provide for,  
21 an alternative procedure or procedures regarding a vote on an  
22 agency shop agreement. The procedures in this subdivision are  
23 also applicable to an agency shop agreement placed in effect  
24 pursuant to subdivision (b).

25 (e) An agency shop arrangement shall not apply to management  
26 employees.

27 (f) ~~Every~~ A recognized employee organization that has agreed  
28 to an agency shop provision or is a party to an agency shop  
29 arrangement shall keep an adequate itemized record of its financial  
30 transactions and shall make available annually, to the public agency  
31 with which the agency shop provision was negotiated, and to the  
32 employees who are members of the organization, within 60 days  
33 after the end of its fiscal year, a detailed written financial report  
34 thereof in the form of a balance sheet and an operating statement,  
35 certified as to accuracy by its president and treasurer or  
36 corresponding principal officer, or by a certified public accountant.  
37 An employee organization required to file financial reports under  
38 the federal Labor-Management *Reporting and* Disclosure Act of  
39 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed  
40 by this chapter, or required to file financial reports under Section

1 3546.5, may satisfy the financial reporting requirement of this  
2 section by providing the public agency with a copy of the financial  
3 reports.

4 SEC. 83. Section 3517.8 of the Government Code is amended  
5 to read:

6 3517.8. (a) If a memorandum of understanding has expired,  
7 and the Governor and the recognized employee organization have  
8 not agreed to a new memorandum of understanding and have not  
9 reached an impasse in negotiations, subject to subdivision (b), the  
10 parties to the agreement shall continue to give effect to the  
11 provisions of the expired memorandum of understanding,  
12 including, but not limited to, all provisions that supersede existing  
13 law, any arbitration provisions, any no strike provisions, any  
14 agreements regarding matters covered in the Fair Labor Standards  
15 Act of 1938 (~~Chapter 8 (commencing with Section 201) of Title~~  
16 ~~29 of the United States Code~~) (*29 U.S.C. Sec. 201 et seq.*), and  
17 any provisions covering fair share fee deduction consistent with  
18 Section 3515.7.

19 (b) If the Governor and the recognized employee organization  
20 reach an impasse in negotiations for a new memorandum of  
21 understanding, the state employer may implement any or all of its  
22 last, best, and final offer. Any proposal in the state employer's  
23 last, best, and final offer that, if implemented, would conflict with  
24 existing statutes or require the expenditure of funds shall be  
25 presented to the Legislature for approval and, if approved, shall  
26 be controlling without further legislative action, notwithstanding  
27 Sections 3517.5, 3517.6, and 3517.7.: Implementation of the last,  
28 best, and final offer does not relieve the parties of the obligation  
29 to bargain in good faith and reach an agreement on a memorandum  
30 of understanding if ~~any~~ circumstances change, and does not waive  
31 ~~any~~ rights that the recognized employee organization has under  
32 this chapter.

33 SEC. 84. Section 3543 of the Government Code is amended  
34 to read:

35 3543. (a) Public school employees shall have the right to form,  
36 join, and participate in the activities of employee organizations of  
37 their own choosing for the purpose of representation on all matters  
38 of employer-employee relations. Public school employees shall  
39 have the right to represent themselves individually in their  
40 employment relations with the public school employer, except that

1 once the employees in an appropriate unit have selected an  
2 exclusive representative and it has been recognized pursuant to  
3 Section 3544.1 or certified pursuant to Section 3544.7, ~~no an~~  
4 employee in that unit ~~may~~ *shall not* meet and negotiate with the  
5 public school employer. If the exclusive representative of a unit  
6 provides notification, as specified by subdivision (a) of Section  
7 3546, public school employees who are in a unit for which an  
8 exclusive representative has been selected, shall be required, as a  
9 condition of continued employment, to join the recognized  
10 employee organization or to pay the organization a fair share  
11 services fee, as required by Section 3546. If a majority of the  
12 members of a bargaining unit rescind that arrangement, either of  
13 the following options shall be applicable:

14 (1) The recognized employee organization may petition for the  
15 reinstatement of the arrangement described in subdivision (a) of  
16 Section 3546 pursuant to the procedures in paragraph (2) of  
17 subdivision (d) of Section 3546.

18 (2) The employees may negotiate either of the two forms of  
19 organizational security described in subdivision (i) of Section  
20 3540.1.

21 (b) ~~Any~~ *An* employee may at any time present grievances to his  
22 or her employer, and have ~~such~~ *those* grievances adjusted, without  
23 the intervention of the exclusive representative, as long as the  
24 adjustment is reached prior to arbitration pursuant to Sections  
25 3548.5, 3548.6, 3548.7, and 3548.8 and the adjustment is not  
26 inconsistent with the terms of a written agreement then in effect;  
27 provided that the public school employer shall not agree to a  
28 resolution of the grievance until the exclusive representative has  
29 received a copy of the grievance and the proposed resolution and  
30 has been given the opportunity to file a response.

31 SEC. 85. Section 7267.2 of the Government Code is amended  
32 to read:

33 7267.2. (a) (1) Prior to adopting a resolution of necessity  
34 pursuant to Section 1245.230 of the Code of Civil Procedure and  
35 initiating negotiations for the acquisition of real property, the public  
36 entity shall establish an amount ~~which~~ *that* it believes to be just  
37 compensation therefor, and shall make an offer to the owner or  
38 owners of record to acquire the property for the full amount so  
39 established, unless the owner cannot be located with reasonable  
40 diligence. The offer may be conditioned upon the legislative body's



1 ratification of the offer by execution of a contract of acquisition  
2 or adoption of a resolution of necessity or both. ~~In no event shall~~  
3 ~~the amount~~ *The amount shall not* be less than the public entity's  
4 approved appraisal of the fair market value of the property. ~~Any~~  
5 A decrease or increase in the fair market value of real property to  
6 be acquired prior to the date of valuation caused by the public  
7 improvement for which the property is acquired, or by the  
8 likelihood that the property would be acquired for the improvement,  
9 other than that due to physical deterioration within the reasonable  
10 control of the owner or occupant, shall be disregarded in  
11 determining the compensation for the property.

12 (2) At the time of making the offer described in paragraph (1),  
13 the public entity shall provide the property owner with an  
14 informational pamphlet detailing the process of eminent domain  
15 and the property owner's rights under the Eminent Domain Law.

16 (b) The public entity shall provide the owner of real property  
17 to be acquired with a written statement of, and summary of the  
18 basis for, the amount it established as just compensation. The  
19 written statement and summary shall contain detail sufficient to  
20 indicate clearly the basis for the offer, including, but not limited  
21 to, all of the following information:

22 (1) The date of valuation, highest and best use, and applicable  
23 zoning of property.

24 (2) The principal transactions, reproduction or replacement cost  
25 analysis, or capitalization analysis, supporting the determination  
26 of value.

27 (3) ~~Where~~ *If* appropriate, the just compensation for the real  
28 property acquired and for damages to remaining real property shall  
29 be separately stated and shall include the calculations and narrative  
30 explanation supporting the compensation, including any offsetting  
31 benefits.

32 (c) Where the property involved is ~~owner-occupied~~  
33 *owner-occupied* residential property and contains no more than  
34 four residential units, the homeowner shall, upon request, be  
35 allowed to review a copy of the appraisal upon which the offer is  
36 based. The public entity may, but is not required to, satisfy the  
37 written statement, summary, and review requirements of this  
38 section by providing the owner a copy of the appraisal on which  
39 the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount—~~which~~ *that* it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price—~~which~~ *that* is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), “offered for sale” means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published, specified price, set no more than six months prior to, and still available at, the time the public entity initiates contact with the landowner regarding the public entity’s possible acquisition of the property.

SEC. 86. Section 7576 of the Government Code is amended to read:

7576. (a) The State Department of Mental Health, or ~~any a~~ community mental health service, as ~~defined~~ *described* in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, is responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, if required in the individualized education program of a pupil. A local educational agency is not required to place a pupil in a more restrictive educational environment in order for the pupil to receive the mental health services specified in his or her individualized education program if the mental health services can be appropriately provided in a less restrictive setting. It is the intent of the Legislature that the local educational agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the educational and mental health treatment needs of the pupil in a manner that is ~~cost-effective~~ *cost effective* for both public agencies, subject to the requirements of state and federal special education law, including

1 the requirement that the placement be appropriate and in the least  
2 restrictive environment. For purposes of this section, “parent” is  
3 as defined in Section 56028 of the Education Code.

4 (b) A local educational agency, individualized education  
5 program team, or parent may initiate a referral for assessment of  
6 the social and emotional status of a pupil, pursuant to Section  
7 56320 of the Education Code. Based on the results of assessments  
8 completed pursuant to Section 56320 of the Education Code, an  
9 individualized education program team may refer a pupil who has  
10 been determined to be an individual with exceptional needs, as  
11 defined in Section 56026 of the Education Code, and who is  
12 suspected of needing mental health services to a community mental  
13 health service if the pupil meets all of the criteria in paragraphs  
14 (1) to (5), inclusive. Referral packages shall include all  
15 documentation required in subdivision (c), and shall be provided  
16 immediately to the community mental health service.

17 (1) The pupil has been assessed by school personnel in  
18 accordance with Article 2 (commencing with Section 56320) of  
19 Chapter 4 of Part 30 of *Division 4 of Title 2* of the Education Code.  
20 Local educational agencies and community mental health services  
21 shall work collaboratively to ensure that assessments performed  
22 prior to referral are as useful as possible to the community mental  
23 health service in determining the need for mental health services  
24 and the level of services needed.

25 (2) The local educational agency has obtained written parental  
26 consent for the referral of the pupil to the community mental health  
27 service, for the release and exchange of all relevant information  
28 between the local educational agency and the community mental  
29 health service, and for the observation of the pupil by mental health  
30 professionals in an educational setting.

31 (3) The pupil has emotional or behavioral characteristics that  
32 ~~are~~ *satisfy* all of the following:

33 (A) Are observed by qualified educational staff in educational  
34 and other settings, as appropriate.

35 (B) Impede the pupil from benefiting from educational services.

36 (C) Are significant as indicated by their rate of occurrence and  
37 intensity.

38 (D) Are associated with a condition that cannot be described  
39 solely as a social maladjustment or a temporary adjustment  
40 problem, and cannot be resolved with short-term counseling.

1 (4) As determined using educational assessments, the pupil's  
2 functioning, including cognitive functioning, is at a level sufficient  
3 to enable the pupil to benefit from mental health services.

4 (5) The local educational agency, pursuant to Section 56331 of  
5 the Education Code, has provided appropriate counseling and  
6 guidance services, psychological services, parent counseling and  
7 training, or social work services to the pupil pursuant to Section  
8 56363 of the Education Code, or behavioral intervention as  
9 specified in Section 56520 of the Education Code, as specified in  
10 the individualized education program and the individualized  
11 education program team has determined that the services do not  
12 meet the educational needs of the pupil, or, in cases where these  
13 services are clearly inadequate or inappropriate to meet the  
14 educational needs of the pupil, the individualized education  
15 program team has documented which of these services were  
16 considered and why they were determined to be inadequate or  
17 inappropriate.

18 (c) If referring a pupil to a community mental health service in  
19 accordance with subdivision (b), the local educational agency or  
20 the individualized education program team shall provide the  
21 following documentation:

22 (1) Copies of the current individualized education program, all  
23 current assessment reports completed by school personnel in all  
24 areas of suspected disabilities pursuant to Article 2 (commencing  
25 with Section 56320) of Chapter 4 of Part 30 of *Division 4 of Title*  
26 *2 of the Education Code*, and other relevant information, including  
27 reports completed by other agencies.

28 (2) A copy of the parent's consent obtained as provided in  
29 paragraph (2) of subdivision (b).

30 (3) A summary of the emotional or behavioral characteristics  
31 of the pupil, including documentation that the pupil meets the  
32 criteria set forth in paragraphs (3) and (4) of subdivision (b).

33 (4) A description of the counseling, psychological, and guidance  
34 services, and other interventions that have been provided to the  
35 pupil, as provided in the individualized education program of the  
36 pupil, including the initiation, duration, and frequency of these  
37 services, or an explanation of the reasons a service was considered  
38 for the pupil and determined to be inadequate or inappropriate to  
39 meet his or her educational needs.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local educational agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service if a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(e) If referring a pupil to a community mental health service in accordance with subdivision (d), the local educational agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) Documentation that appropriate related educational and designated instruction and services have been provided in accordance with Sections 300.34 and 300.39 of Title 34 of the Code of Federal Regulations.

(5) An explanation ~~as to~~ of the reasons that counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may

1 seek services from other public programs or private providers, as  
2 appropriate. This subdivision does not change the identification  
3 and referral responsibilities imposed on local educational agencies  
4 under Article 1 (commencing with Section 56300) of Chapter 4  
5 of Part 30 of *Division 4 of Title 2 of the Education Code*.

6 (g) Referrals shall be made to the community mental health  
7 service in the county in which the pupil lives. If the pupil has been  
8 placed into residential care from another county, the community  
9 mental health service receiving the referral shall forward the  
10 referral immediately to the community mental health service of  
11 the county of origin, which shall have fiscal and programmatic  
12 responsibility for providing or arranging for the provision of  
13 necessary services. ~~In no event shall the~~ *The* procedures described  
14 in this subdivision *shall not* delay or impede the referral and  
15 assessment process.

16 (h) A county mental health agency does not have fiscal or legal  
17 responsibility for ~~any~~ costs it incurs prior to the approval of an  
18 individualized education program, except for costs associated with  
19 conducting a mental health assessment.

20 SEC. 87. Section 7585 of the Government Code is amended  
21 to read:

22 7585. (a) ~~Whenever any a~~ department or ~~any~~ local agency  
23 designated by that department fails to provide a related service or  
24 designated instruction and service required pursuant to Section  
25 7575 or 7576, and specified in the ~~child's~~ *pupil's* individualized  
26 education program, the parent, adult pupil, *if applicable*, or ~~any a~~  
27 local educational agency referred to in this chapter, shall submit  
28 a written notification of the failure to provide the service to the  
29 Superintendent of Public Instruction or the Secretary of ~~the~~  
30 *California Health and Human Services Agency*.

31 (b) ~~When either the Superintendent of Public Instruction or the~~  
32 ~~Secretary of the Health and Human Services Agency~~ *secretary*  
33 receives a written notification of the failure to provide a service  
34 as specified in subdivision (a), a copy shall immediately be  
35 transmitted to the other party. ~~The Superintendent of Public~~  
36 ~~Instruction~~, or his or her designee, and the secretary, or his or her  
37 designee, shall meet to resolve the issue within 15 calendar days  
38 of receipt of the notification. A written copy of the meeting  
39 resolution shall be mailed to the parent, the local educational  
40 agency, and affected departments, within 10 days of the meeting.

1 (c) If the issue cannot be resolved within 15 calendar days to  
2 the satisfaction of the ~~superintendent~~ *Superintendent* and the  
3 secretary, they shall jointly submit the issue in writing to the  
4 Director of the Office of Administrative Hearings, or his or her  
5 designee, in the State Department of General Services.

6 (d) The Director of the Office of Administrative Hearings, or  
7 his or her designee, shall review the issue and submit his or her  
8 findings in the case to the ~~superintendent~~ *Superintendent* and the  
9 secretary within 30 calendar days of receipt of the case. The  
10 decision of the ~~Director of the Office of Administrative Hearings~~  
11 *director*, or his or her designee, shall be binding on the departments  
12 and their designated agencies who are parties to the dispute.

13 (e) If the meeting, conducted pursuant to subdivision (b), fails  
14 to resolve the issue to the satisfaction of the parent or local  
15 educational agency, either party may appeal to the ~~Director of the~~  
16 ~~Office of Administrative Hearings~~ *director*, whose decision shall  
17 be the final administrative determination and binding on all parties.

18 (f) Whenever notification is filed pursuant to subdivision (a),  
19 the pupil affected by the dispute shall be provided with the  
20 appropriate related service or designated instruction and service  
21 pending resolution of the dispute, if the pupil had been receiving  
22 the service. The ~~Superintendent of Public Instruction~~ and the  
23 ~~Secretary of the Health and Human Services Agency~~ *secretary*  
24 shall ensure that funds are available for the provision of the service  
25 pending resolution of the issue pursuant to subdivision (e).

26 (g) ~~Nothing in this section prevents~~ *This section does not prevent*  
27 a parent or adult pupil from filing for a due process hearing under  
28 Section 7586.

29 (h) The contract between the State Department of Education  
30 and the Office of Administrative Hearings for conducting due  
31 process hearings shall include payment for services rendered by  
32 the Office of Administrative Hearings which are required by this  
33 section.

34 SEC. 88. Section 8588.1 of the Government Code is amended  
35 to read:

36 8588.1. (a) The Legislature finds and declares that this state  
37 can only truly be prepared for the next disaster if the public and  
38 private sector collaborate.

39 (b) The Office of Emergency Services may, ~~as appropriate,~~  
40 include, *as appropriate*, private businesses and nonprofit

1 organizations within its responsibilities to prepare the state for  
2 disasters under this chapter. All participation by businesses and  
3 nonprofit associations in this program shall be voluntary.

4 (c) The office may do any of the following:

5 (1) Provide guidance to business and nonprofit organizations  
6 representing business interests on how to integrate private sector  
7 emergency preparedness measures into governmental disaster  
8 planning programs.

9 (2) Conduct outreach programs to encourage business to work  
10 with governments and community associations to better prepare  
11 the community and their employees to survive and recover from  
12 disasters.

13 (3) Develop systems so that government, businesses, and  
14 employees can exchange information during disasters to protect  
15 themselves and their families.

16 (4) Develop programs so that businesses and government can  
17 work cooperatively to advance technology that will protect the  
18 public during disasters.

19 (d) The office may share facilities and systems for the purposes  
20 of subdivision (b) with the private sector to the extent the ~~cost~~  
21 ~~costs~~ for their use are reimbursed by the private sector.

22 (e) Proprietary information or information protected by state or  
23 federal privacy laws shall not be disclosed under this program.

24 (f) Notwithstanding Section 11005, donations and private grants  
25 may be accepted by the office and shall not be subject to Section  
26 11005.

27 (g) The Disaster Resistant Communities Fund is hereby created  
28 in the State Treasury. Upon appropriation by the Legislature, the  
29 Director of the Office of Emergency Services may expend the  
30 ~~money moneys~~ in the account for the costs associated ~~within~~ *with*  
31 this section.

32 (h) This section shall be implemented only to the extent that  
33 in-kind contributions or donations are received from the private  
34 sector, or grant funds are received from the federal government,  
35 for these purposes.

36 SEC. 89. Section 8592.1 of the Government Code is amended  
37 to read:

38 8592.1. For purposes of this article, the following terms have  
39 the following meanings:



1 (a) “Backward compatibility” means that the equipment is able  
2 to function with older, existing equipment.

3 (b) “Committee” means the Public Safety Radio Strategic  
4 Planning Committee, which was established in December 1994 in  
5 recognition of the need to improve existing public radio systems  
6 and to develop interoperability among public safety departments;  
7 and between state public safety departments and local or federal  
8 entities, and which consists of representatives of the following  
9 state entities:

10 (1) The Office of Emergency Services, who shall serve as  
11 chairperson.

12 (2) The *Department of the* California Highway Patrol.

13 (3) The Department of Transportation.

14 (4) The Department of Corrections and Rehabilitation.

15 (5) The Department of Parks and Recreation.

16 (6) The Department of Fish and Game.

17 (7) The Department of Forestry and Fire Protection.

18 (8) The Department of Justice.

19 (9) The Department of Water Resources.

20 (10) The State Department of Public Health.

21 (11) The Emergency Medical Services Authority.

22 (12) The Department of General Services.

23 (13) The Office of Homeland Security.

24 (14) The Military Department.

25 (15) *The* Department of Finance.

26 (c) “First response agencies” means public agencies that, in the  
27 early states of an incident, are responsible for, among other things,  
28 the protection and preservation of life, property, evidence, and the  
29 environment, including, but not limited to, state fire agencies, state  
30 and local emergency medical services agencies, local sheriffs’  
31 departments, municipal police departments, county and city fire  
32 departments, and police and fire protection districts.

33 (d) “Nonproprietary equipment or systems” means equipment  
34 or systems that are able to function with another manufacturer’s  
35 equipment or system regardless of type or design.

36 (e) “Open architecture” means a system that can accommodate  
37 equipment from various vendors because it is not a proprietary  
38 system.

39 (f) “Public safety radio subscriber” means the ultimate end user.  
40 Subscribers include individuals or organizations, including, for

1 example, local police departments, fire departments, and other  
2 operators of a public safety radio system. Typical subscriber  
3 equipment includes end instruments, including mobile radios,  
4 hand-held radios, mobile repeaters, fixed repeaters, transmitters,  
5 or receivers that are interconnected to utilize assigned public safety  
6 communications frequencies.

7 (g) “Public safety spectrum” means the spectrum allocated by  
8 the Federal Communications Commission for operation of  
9 interoperable and general use radio communication systems for  
10 public safety purposes within the state.

11 SEC. 90. Section 8879.50 of the Government Code is amended  
12 to read:

13 8879.50. (a) As used in this chapter and in Chapter 12.49  
14 (commencing with Section 8879.20), the following terms have the  
15 following meanings:

16 (1) “Commission” means the California Transportation  
17 Commission.

18 (2) “Department” means the Department of Transportation.

19 (3) “Administrative agency” means the state agency responsible  
20 for programming bond funds made available by Chapter 12.49  
21 (commencing with Section 8879.20), as specified in subdivision  
22 (c).

23 (4) Unless otherwise specified in this chapter, “project” includes  
24 equipment purchase, construction, right-of-way acquisition, and  
25 project delivery costs.

26 (5) “Recipient agency” means the recipient of bond funds made  
27 available by Chapter 12.49 (commencing with Section 8879.20)  
28 that is responsible for implementation of an approved project.

29 (6) “Fund” shall have the *same* meaning as—~~defined~~ in  
30 subdivision (c) of Section 8879.20.

31 (b) Administrative costs, including audit and program oversight  
32 costs for agencies, commissions, or departments administering  
33 programs funded pursuant to this chapter, recoverable by bond  
34 funds shall not exceed 3 percent of the program’s cost.

35 (c) The administrative agency for each bond account is as  
36 follows:

37 (1) The commission is the administrative agency for the Corridor  
38 Mobility Improvement Account; the Trade Corridors Improvement  
39 Fund; the Transportation Facilities Account; the State Route 99  
40 Account; the ~~State and Local~~ *State-Local* Partnership Program

1 Account; the Local Bridge Seismic Retrofit Account; the  
2 Highway-Railroad Crossing Safety Account; and the Highway  
3 Safety, Rehabilitation, and Preservation Account.

4 (2) The Office of Homeland Security and the Office of  
5 Emergency Services are the administrative agencies for the Port  
6 and Maritime Security Account and the Transit System Safety,  
7 Security, and Disaster Response Account.

8 (3) The department is the administrative agency for the Public  
9 Transportation Modernization, Improvement, and Service  
10 Enhancement Account.

11 (d) The administrative agency ~~may~~ *shall* not approve project  
12 fund allocations for ~~any~~ *a* project until the recipient agency  
13 provides a project funding plan that demonstrates that the funds  
14 are expected to be reasonably available and sufficient to complete  
15 the project. The administrative agency may approve funding for  
16 ~~useable~~ *usable* project segments only if the benefits associated  
17 with each individual segment are sufficient to meet the objectives  
18 of the program from which the individual segment is funded.

19 (e) Guidelines adopted by the administrative agency pursuant  
20 to this chapter and Chapter 12.49 (commencing with Section  
21 8879.20) are intended to provide internal guidance for the agency  
22 and shall be exempt from the Administrative Procedure Act  
23 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
24 Division 3), and shall do all of the following:

25 (1) Provide for the audit of project expenditures and outcomes.

26 (2) Require that the useful life of the project be identified as  
27 part of the project nomination process.

28 (3) Require that project nominations have project delivery  
29 milestones, including, but not limited to, start and completion dates  
30 for environmental clearance, land acquisition, design, construction  
31 bid award, construction completion, and project closeout, as  
32 applicable.

33 (f) (1) As a condition for allocation of funds to a specific project  
34 under Chapter 12.49 (commencing with Section 8879.20), the  
35 administrative agency shall require the recipient agency to report,  
36 on a semiannual basis, on the activities and progress made toward  
37 implementation of the project. The administrative agency shall  
38 forward the report to the Department of Finance by means approved  
39 by the Department of Finance. The purpose of the report is to  
40 ensure that the project is being executed in a timely fashion, and

1 is within the scope and budget identified when the decision was  
2 made to fund the project. If it is anticipated that project costs will  
3 exceed the approved project budget, the recipient agency shall  
4 provide a plan to the administrative agency for achieving the  
5 benefits of the project by either downscoping the project to remain  
6 within budget or by identifying an alternative funding source to  
7 meet the cost increase. The administrative agency may either  
8 approve the corrective plan or direct the recipient agency to modify  
9 its plan.

10 (2) Within six months of the project becoming operable, the  
11 recipient agency shall provide a report to the administrative agency  
12 on the final costs of the project as compared to the approved project  
13 budget, the project duration as compared to the original project  
14 schedule as of the date of allocation, and performance outcomes  
15 derived from the project compared to those described in the original  
16 application for funding. The administrative agency shall forward  
17 the report to the Department of Finance by means approved by the  
18 Department of Finance.

19 SEC. 91. Section 8879.60 of the Government Code is amended  
20 to read:

21 8879.60. (a) For funds appropriated from the Transit System  
22 Safety, Security, and Disaster Response Account for allocation to  
23 intercity and commuter rail operators eligible to receive funds  
24 pursuant to subdivision (c) of Section 8879.57, ~~OHS~~ *the Office of*  
25 *Homeland Security (OHS)* shall administer a grant application and  
26 award program for those intercity and commuter rail operators.

27 (b) Funds awarded to intercity and commuter rail operators  
28 pursuant to this section shall be for eligible capital expenditures  
29 as described in subdivision (c) of Section 8879.57.

30 (c) Prior to allocating funds to projects pursuant to this section,  
31 OHS shall adopt guidelines to establish the criteria and process  
32 for the distribution of funds described in this section. Prior to  
33 adopting the guidelines, OHS shall hold a public hearing on the  
34 proposed guidelines.

35 (d) For each fiscal year in which funds are appropriated for the  
36 purposes of this section, OHS shall issue a notice of funding  
37 availability no later than October 1.

38 (e) No later than December 1; of each fiscal year in which the  
39 notice in subdivision (d) is issued, eligible intercity and commuter  
40 rail operators may submit project nominations for funding to OHS

1 for its review and consideration. Project nominations shall include  
2 all of the following:

3 (1) A description of the project, which shall illustrate the  
4 physical components of the project and the security or emergency  
5 response benefit to be achieved by the completion of the project.

6 (2) Identification of all nonbond sources of funding committed  
7 to the project.

8 (3) An estimate of the project's full cost and the proposed  
9 schedule for the project's completion.

10 (f) No later than February 1, OHS shall select eligible projects  
11 to receive grants under this section. Grants awarded to intercity  
12 and commuter rail operators pursuant to subdivision (c) of Section  
13 8879.57 shall be for eligible capital expenditures, as described in  
14 subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of  
15 that section.

16 SEC. 92. Section 11126 of the Government Code is amended  
17 to read:

18 11126. (a) (1) ~~Nothing in this article shall be construed to~~  
19 *This article does not* prevent a state body from holding closed  
20 sessions during a regular or special meeting to consider the  
21 appointment, employment, evaluation of performance, or dismissal  
22 of a public employee or to hear complaints or charges brought  
23 against that employee by another person or employee unless the  
24 employee requests a public hearing.

25 (2) As a condition ~~to~~ of holding a closed session on the  
26 complaints or charges to consider disciplinary action or to consider  
27 dismissal, the employee shall be given written notice of his or her  
28 right to have a public hearing, rather than a closed session, and  
29 that notice shall be delivered to the employee personally or by  
30 mail at least 24 hours before the time for holding a regular or  
31 special meeting. If notice is not given, ~~any~~ disciplinary or other  
32 action taken against any employee at the closed session shall be  
33 null and void.

34 (3) The state body also may exclude from ~~any~~ a public or closed  
35 session, during the examination of a witness, any or all other  
36 witnesses in the matter being investigated by the state body.

37 (4) Following the public hearing or closed session, the body  
38 may deliberate on the decision to be reached in a closed session.

39 (b) For ~~the~~ purposes of this section, "employee" does not include  
40 ~~any~~ a person who is elected to, or appointed to a public office by,

1 ~~any~~ a state body. However, officers of the California State  
2 University who receive compensation for their services, other than  
3 per diem and ordinary and necessary expenses, shall, when engaged  
4 in that capacity, be considered employees. Furthermore, for  
5 purposes of this section, ~~the term employee~~ “employee” includes  
6 a person exempt from civil service pursuant to subdivision (e) of  
7 Section 4 of Article VII of the California Constitution.

8 (c) ~~Nothing in this article shall be construed to~~ *This article does*  
9 *not* do any of the following:

10 (1) Prevent state bodies that administer the licensing of persons  
11 engaging in businesses or professions from holding closed sessions  
12 to prepare, approve, grade, or administer examinations.

13 (2) Prevent an advisory body of a state body that administers  
14 the licensing of persons engaged in businesses or professions from  
15 conducting a closed session to discuss matters that the advisory  
16 body has found would constitute an unwarranted invasion of the  
17 privacy of an individual licensee or applicant if discussed in an  
18 open meeting, provided *that* the advisory body does not include a  
19 quorum of the members of the state body it advises. Those matters  
20 may include review of an applicant’s qualifications for licensure  
21 and an inquiry specifically related to the state body’s enforcement  
22 program concerning an individual licensee or applicant where the  
23 inquiry occurs prior to the filing of a civil, criminal, or  
24 administrative disciplinary action against the licensee or applicant  
25 by the state body.

26 (3) Prohibit a state body from holding a closed session to  
27 deliberate on a decision to be reached in a proceeding required to  
28 be conducted pursuant to Chapter 5 (commencing with Section  
29 11500) or similar provisions of law.

30 (4) Grant a right to enter ~~any~~ a correctional institution or the  
31 grounds of a correctional institution ~~where if~~ that right is not  
32 otherwise granted by law, ~~nor shall anything in this article be~~  
33 ~~construed to~~ *and this article does not* prevent a state body from  
34 holding a closed session when considering and acting upon the  
35 determination of a term, parole, or release of ~~any~~ *an* individual or  
36 other disposition of an individual case, or if public disclosure of  
37 the subjects under discussion or consideration is expressly  
38 prohibited by statute.

1 (5) Prevent ~~any~~ a closed session to consider the conferring of  
2 honorary degrees, or gifts, donations, and bequests that the donor  
3 or proposed donor has requested in writing to be kept confidential.

4 (6) Prevent the Alcoholic Beverage Control Appeals Board from  
5 holding a closed session for the purpose of holding a deliberative  
6 conference as provided in Section 11125.

7 (7) (A) Prevent a state body from holding closed sessions with  
8 its negotiator prior to the purchase, sale, exchange, or lease of real  
9 property by or for the state body to give instructions to its  
10 negotiator regarding the price and terms of payment for the  
11 purchase, sale, exchange, or lease.

12 (B) However, prior to the closed session, the state body shall  
13 hold an open and public session in which it identifies the real  
14 property or real properties that the negotiations may concern and  
15 the person or persons with whom its negotiator may negotiate.

16 (C) For purposes of this paragraph, the negotiator may be a  
17 member of the state body.

18 (D) For purposes of this paragraph, “lease” includes renewal or  
19 renegotiation of a lease.

20 (E) ~~Nothing in this paragraph shall~~ *This article does not* preclude  
21 a state body from holding a closed session for discussions regarding  
22 eminent domain proceedings pursuant to subdivision (e).

23 (8) Prevent the California Postsecondary Education Commission  
24 from holding closed sessions to consider matters pertaining to the  
25 appointment or termination of the Director of the California  
26 Postsecondary Education Commission.

27 (9) Prevent the ~~Council~~ *Bureau* for Private Postsecondary and  
28 Vocational Education from holding closed sessions to consider  
29 matters pertaining to the appointment or termination of the  
30 Executive Director of the ~~Council~~ *Bureau* for Private Postsecondary  
31 and Vocational Education.

32 (10) Prevent the Franchise Tax Board from holding closed  
33 sessions for the purpose of discussion of confidential tax returns  
34 or information the public disclosure of which is prohibited by law,  
35 or from considering matters pertaining to the appointment or  
36 removal of the Executive Officer of the Franchise Tax Board.

37 (11) Require the Franchise Tax Board to notice or disclose any  
38 confidential tax information considered in closed sessions, or  
39 documents executed in connection therewith, the public disclosure  
40 of which is prohibited pursuant to Article 2 (commencing with

1 Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the  
2 Revenue and Taxation Code.

3 (12) Prevent the ~~Board of~~ Corrections *Standards Authority* from  
4 holding closed sessions when considering reports of crime  
5 conditions under Section 6027 of the Penal Code.

6 (13) Prevent the State Air Resources Board from holding closed  
7 sessions when considering the proprietary specifications and  
8 performance data of manufacturers.

9 (14) Prevent the State Board of Education or the Superintendent  
10 of Public Instruction, or ~~any~~ *a* committee advising the board or  
11 the ~~superintendent~~ *Superintendent*, from holding closed sessions  
12 on those portions of its review of assessment instruments pursuant  
13 to Chapter 5 (commencing with Section 60600) of, or pursuant to  
14 Chapter 9 (commencing with Section 60850) of, Part 33 of Division  
15 4 of Title 2 of the Education Code during which actual test content  
16 is reviewed and discussed. The purpose of this provision is to  
17 maintain the confidentiality of the assessments under review.

18 (15) Prevent the California Integrated Waste Management Board  
19 or its auxiliary committees from holding closed sessions for the  
20 purpose of discussing confidential tax returns, discussing trade  
21 secrets or confidential or proprietary information in its possession,  
22 or discussing other data, the public disclosure of which is  
23 prohibited by law.

24 (16) Prevent a state body that invests retirement, pension, or  
25 endowment funds from holding closed sessions when considering  
26 investment decisions. For purposes of consideration of shareholder  
27 voting on corporate stocks held by the state body, closed sessions  
28 for the purposes of voting may be held only with respect to election  
29 of corporate directors, election of independent auditors, and other  
30 financial issues that could have a material effect on the net income  
31 of the corporation. For ~~the purpose~~ *purposes* of real property  
32 investment decisions that may be considered in a closed session  
33 pursuant to this paragraph, a state body shall also be exempt from  
34 the provisions of paragraph (7) relating to the identification of real  
35 properties prior to the closed session.

36 (17) Prevent a state body, or boards, commissions,  
37 administrative officers, or other representatives that may properly  
38 be designated by law or by a state body, from holding closed  
39 sessions with its representatives in discharging its responsibilities  
40 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~~ *with* 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 *also* may ~~also~~ meet with a state conciliator who has intervened in the proceedings.

(18) (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~~ a 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~~ *This article does not* prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or

1 disciplinary actions against ~~any~~ a person or entity under the  
2 jurisdiction of the commission.

3 (e) (1) ~~Nothing in this article shall be construed to~~ *This article*  
4 *does not* prevent a state body, based on the advice of its legal  
5 counsel, from holding a closed session to confer with, or receive  
6 advice from, its legal counsel regarding pending litigation when  
7 discussion in open session concerning those matters would  
8 prejudice the position of the state body in the litigation.

9 (2) For purposes of this article, all expressions of the  
10 lawyer-client privilege other than those provided in this subdivision  
11 are hereby abrogated. This subdivision is the exclusive expression  
12 of the lawyer-client privilege for purposes of conducting closed  
13 session meetings pursuant to this article. For purposes of this  
14 subdivision, litigation shall be considered pending when any of  
15 the following circumstances exist:

16 (A) An adjudicatory proceeding before a court, an administrative  
17 body exercising its adjudicatory authority, a hearing officer, or an  
18 arbitrator, to which the state body is a party; has been initiated  
19 formally.

20 (B) (i) A point has been reached where, in the opinion of the  
21 state body on the advice of its legal counsel, based on existing  
22 facts and circumstances, there is a significant exposure to litigation  
23 against the state body.

24 (ii) Based on existing facts and circumstances, the state body  
25 is meeting only to decide whether a closed session is authorized  
26 pursuant to clause (i).

27 (C) (i) Based on existing facts and circumstances, the state  
28 body has decided to initiate or is deciding whether to initiate  
29 litigation.

30 (ii) The legal counsel of the state body shall prepare and submit  
31 to it a memorandum stating the specific reasons and legal authority  
32 for the closed session. If the closed session is pursuant to paragraph  
33 (1), the memorandum shall include the title of the litigation. If the  
34 closed session is pursuant to subparagraph (A) or (B), the  
35 memorandum shall include the existing facts and circumstances  
36 on which it is based. The legal counsel shall submit the  
37 memorandum to the state body prior to the closed session, if  
38 feasible, and in any case no later than one week after the closed  
39 session. The memorandum shall be exempt from disclosure  
40 pursuant to Section 6254.25.

1 (iii) For purposes of this subdivision, “litigation” includes any  
2 adjudicatory proceeding, including eminent domain, before a court,  
3 administrative body exercising its adjudicatory authority, hearing  
4 officer, or arbitrator.

5 (iv) Disclosure of a memorandum required under this  
6 subdivision ~~shall not be deemed as is not~~ a waiver of the  
7 lawyer-client privilege, as provided for under Article 3  
8 (commencing with Section 950) of Chapter 4 of Division 8 of the  
9 Evidence Code.

10 (f) In addition to subdivisions (a), (b), and (c), ~~nothing in this~~  
11 ~~article shall be construed to this article does not~~ do any of the  
12 following:

13 (1) Prevent a state body operating under a joint powers  
14 agreement for insurance pooling from holding a closed session to  
15 discuss a claim for the payment of tort liability or public liability  
16 losses incurred by the state body or ~~any~~ a member agency under  
17 the joint powers agreement.

18 (2) Prevent the examining committee established by the State  
19 Board of Forestry and Fire Protection, pursuant to Section 763 of  
20 the Public Resources Code, from conducting a closed session to  
21 consider disciplinary action against an individual professional  
22 forester prior to the filing of an accusation against the forester  
23 pursuant to Section 11503.

24 (3) Prevent an administrative committee established by the  
25 California Board of Accountancy pursuant to Section 5020 of the  
26 Business and Professions Code from conducting a closed session  
27 to consider disciplinary action against an individual accountant  
28 prior to the filing of an accusation against the accountant pursuant  
29 to Section 11503. ~~Nothing in this article shall be construed to~~ *This*  
30 *article does not* prevent an examining committee established by  
31 the California Board of Accountancy pursuant to Section 5023 of  
32 the Business and Professions Code from conducting a closed  
33 hearing to interview an individual applicant or accountant regarding  
34 the applicant’s qualifications.

35 (4) Prevent a state body, as defined in subdivision (b) of Section  
36 11121, from conducting a closed session to consider ~~any~~ a matter  
37 that properly could be considered in closed session by the state  
38 body ~~whose~~ *the authority of which* it exercises.

39 (5) Prevent a state body, as defined in subdivision (d) of Section  
40 11121, from conducting a closed session to consider ~~any~~ a matter

1 that properly could be considered in a closed session by the body  
2 defined as a state body pursuant to subdivision (a) or (b) of Section  
3 11121.

4 (6) Prevent a state body, as defined in subdivision (c) of Section  
5 11121, from conducting a closed session to consider ~~any~~ a matter  
6 that properly could be considered in a closed session by the state  
7 body it advises.

8 (7) Prevent the State Board of Equalization from holding closed  
9 sessions for either of the following:

10 (A) When considering matters pertaining to the appointment or  
11 removal of the Executive Secretary of the State Board of  
12 Equalization.

13 (B) For the purpose of hearing confidential taxpayer appeals or  
14 data, the public disclosure of which is prohibited by law.

15 (8) Require the State Board of Equalization to disclose ~~any~~  
16 action taken in closed session or documents executed in connection  
17 with that action, the public disclosure of which is prohibited by  
18 law pursuant to Sections 15619 and 15641 of this code and Sections  
19 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651,  
20 45982, 46751, 50159, 55381, and 60609 of the Revenue and  
21 Taxation Code.

22 (9) Prevent the California Earthquake Prediction Evaluation  
23 Council, or other body appointed to advise the Director of the  
24 Office of Emergency Services or the Governor concerning matters  
25 relating to volcanic or earthquake predictions, from holding closed  
26 sessions when considering the evaluation of possible predictions.

27 (g) This article does not prevent either of the following:

28 (1) The Teachers' Retirement Board *of the State Teachers'*  
29 *Retirement System* or the Board of Administration of the Public  
30 Employees' Retirement System from holding closed sessions when  
31 considering matters pertaining to the recruitment, appointment,  
32 employment, or removal of the chief executive officer or when  
33 considering matters pertaining to the recruitment or removal of  
34 the Chief Investment Officer of the State Teachers' Retirement  
35 System or the Public Employees' Retirement System.

36 (2) The Commission on Teacher Credentialing from holding  
37 closed sessions when considering matters relating to the  
38 recruitment, appointment, or removal of its executive director.

39 (h) This article does not prevent the Board of Administration  
40 of the Public Employees' Retirement System from holding closed

1 sessions when considering matters relating to the development of  
2 rates and competitive strategy for plans offered pursuant to Chapter  
3 15 (commencing with Section 21660) of Part 3 of Division 5 of  
4 Title 2.

5 (i) This article does not prevent the Managed Risk Medical  
6 Insurance Board from holding closed sessions when considering  
7 matters related to the development of rates and contracting strategy  
8 for entities contracting or seeking to contract with the board  
9 pursuant to Part 6.2 (commencing with Section 12693), Part 6.3  
10 (commencing with Section 12695), Part 6.4 (commencing with  
11 Section 12699.50), or Part 6.5 (commencing with Section 12700)  
12 of Division 2 of the Insurance Code.

13 SEC. 93. Section 11549.2 of the Government Code is amended  
14 to read:

15 11549.2. (a) ~~(1)~~—Employees assigned to the security unit of  
16 the Office of Technology Review, Oversight, and Security within  
17 the Department of Finance, and the employees of the Office of  
18 Privacy Protection within the Department of Consumer Affairs  
19 are transferred to the office, within the State and Consumer  
20 Services Agency.

21 ~~(2)~~

22 (b) The status, position, and rights of ~~any~~ *an* employee  
23 transferred pursuant to this section shall not be affected by the  
24 transfer.

25 SEC. 94. Section 11549.5 of the Government Code is amended  
26 to read:

27 11549.5. (a) There is hereby created in the office, the Office  
28 of Privacy Protection. The purpose of the Office of Privacy  
29 Protection shall be to protect the privacy of individuals' personal  
30 information in a manner consistent with the California Constitution  
31 by identifying consumer problems in the privacy area and  
32 facilitating the development of fair information practices in  
33 adherence with the Information Practices Act of 1977 (Chapter 1  
34 (commencing with Section 1798) of Title 1.8 of Part 4 of Division  
35 3 of the Civil Code).

36 (b) The Office of Privacy Protection shall inform the public of  
37 potential options for protecting the privacy of, and avoiding the  
38 misuse of, personal information.

39 (c) The Office of Privacy Protection shall make  
40 recommendations to organizations for privacy policies and

1 practices that promote and protect the interests of the consumers  
2 of this state.

3 (d) The Office of Privacy Protection may promote voluntary  
4 and mutually agreed upon nonbinding arbitration and mediation  
5 of privacy-related disputes where appropriate.

6 (e) The Office of Privacy Protection shall do all of the following:

7 (1) Receive complaints from individuals concerning ~~any~~ a  
8 person obtaining, compiling, maintaining, using, disclosing, or  
9 disposing of personal information in a manner that may be  
10 potentially unlawful or violate a stated privacy policy relating to  
11 that individual, and provide advice, information, and referral, where  
12 available.

13 (2) Provide information to consumers on effective ways of  
14 handling complaints that involve violations of privacy-related  
15 laws, including identity theft and identity fraud. If appropriate  
16 local, state, or federal agencies are available to assist consumers  
17 with those complaints, the office shall refer those complaints to  
18 those agencies.

19 (3) Develop information and educational programs and materials  
20 to foster public understanding and recognition of the purposes of  
21 this article.

22 (4) Investigate and assist in the prosecution of identity theft and  
23 other privacy-related crimes, and, as necessary, coordinate with  
24 local, state, and federal law enforcement agencies in the  
25 investigation of similar crimes.

26 (5) Assist and coordinate in the training of local, state, and  
27 federal law enforcement agencies regarding identity theft and other  
28 privacy-related crimes, as appropriate.

29 (6) The authority of the Office of Privacy Protection to adopt  
30 regulations under this article shall be limited exclusively to those  
31 regulations necessary and appropriate to implement subdivisions  
32 (b), (c), (d), and (e).

33 SEC. 95. Section 11549.6 of the Government Code is amended  
34 to read:

35 11549.6. This chapter shall not apply to the State Compensation  
36 Insurance Fund, the Legislature, or the Legislative Data Center in  
37 the ~~Legislature~~ Legislative Counsel Bureau.

38 SEC. 96. Section 11550 of the Government Code is amended  
39 to read:

1 11550. (a) Effective January 1, 1988, an annual salary of  
2 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to  
3 each of the following:

- 4 (1) Director of Finance.
- 5 (2) Secretary of Business, Transportation and Housing.
- 6 (3) Secretary of the Resources Agency.
- 7 (4) Secretary of California Health and Human Services.
- 8 (5) Secretary of State and Consumer Services.
- 9 (6) Commissioner of the California Highway Patrol.
- 10 (7) Secretary of the Department of Corrections and  
11 Rehabilitation.
- 12 (8) Secretary of Food and Agriculture.
- 13 (9) Secretary of Veterans Affairs.
- 14 (10) Secretary of Labor and Workforce Development.
- 15 (11) State Chief Information Officer.
- 16 (12) Secretary of ~~for~~ Environmental Protection.

17 (b) The annual compensation provided by this section shall be  
18 increased in any fiscal year in which a general salary increase is  
19 provided for state employees. The amount of the increase provided  
20 by this section shall be comparable to, but shall not exceed, the  
21 percentage of the general salary increases provided for state  
22 employees during that fiscal year.

23 SEC. 97. Section 13959 of the Government Code is amended  
24 to read:

25 13959. (a) The board shall grant a hearing to an applicant who  
26 believes he or she is entitled to compensation pursuant to this  
27 chapter to contest a staff recommendation to deny compensation  
28 in whole or in part.

29 (b) The board shall notify the applicant not less than 10 days  
30 prior to the date of the hearing. Notwithstanding Section 11123,  
31 if the application that the board is considering involves either a  
32 crime against a minor, a crime of sexual assault, or a crime of  
33 domestic violence, the board may exclude from the hearing all  
34 persons other than board members and members of its staff, the  
35 applicant for benefits, a minor applicant's parents or guardians,  
36 the applicant's representative, ~~any~~ witnesses, and other persons of  
37 the applicant's choice to provide assistance to the applicant during  
38 the hearing. However, the board ~~may~~ *shall* not exclude persons  
39 from the hearing if the applicant or applicant's representative  
40 requests that the hearing be open to the public.

1 (c) At the hearing, the person seeking compensation shall have  
2 the burden of establishing, by a preponderance of the evidence,  
3 the elements for eligibility under Section 13955.

4 (d) Except as otherwise provided by law, in making  
5 determinations of eligibility for compensation and in deciding  
6 upon the amount of compensation, the board shall apply the law  
7 in effect as of the date an application was submitted.

8 (e) The hearing shall be informal and need not be conducted  
9 according to the technical rules relating to evidence and witnesses.  
10 The board may rely on any relevant evidence if it is the sort of  
11 evidence on which responsible persons are accustomed to rely in  
12 the conduct of serious affairs, regardless of the existence of ~~any a~~  
13 common law or statutory rule that might make improper the  
14 admission of the evidence over objection in a civil action. The  
15 board may rely on written reports prepared for the board, or other  
16 information received, from public agencies responsible for  
17 investigating the crime. If the applicant or the applicant's  
18 representative chooses not to appear at the hearing, the board may  
19 act solely upon the application for compensation, the staff's report,  
20 and other evidence that appears in the record.

21 (f) Hearings shall be held in various locations with the frequency  
22 necessary to provide for the speedy adjudication of the applications.  
23 If the applicant's presence is required at the hearing, the board  
24 shall schedule the applicant's hearing in as convenient a location  
25 as possible.

26 (g) The board may delegate the hearing of applications to  
27 hearing officers.

28 (h) The decisions of the board shall be in writing. Copies of the  
29 decisions shall be delivered to the applicant or to his or her  
30 representative personally or sent to ~~them~~ *him or her* by mail.

31 (i) The board may order a reconsideration of all or part of a  
32 decision on written request of the applicant. The board ~~may~~ *shall*  
33 not grant more than one request for ~~consideration~~ *reconsideration*  
34 with respect to any one decision on ~~any an~~ application for  
35 compensation. The board ~~may~~ *shall* not consider any request for  
36 ~~consideration~~ *reconsideration* filed with the board more than 30  
37 calendar days after the personal delivery or 60 calendar days after  
38 the mailing of the original decision.

39 (j) The board may order a reconsideration of all or part of a  
40 decision on its own motion, at its discretion, at any time.



SEC. 98. Section 14838 of the Government Code is amended to read:

14838. In order to facilitate the participation of small business, including microbusiness, in the provision of goods, information technology, and services to the state, and in the construction (including alteration, demolition, repair, or improvement) of state facilities, the directors of ~~General Services~~ *the department* and other state agencies that enter those contracts, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small Business Certification and Resources, for the extent of participation of small businesses, including microbusinesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

(b) Provide for small business preference, or nonsmall business preference for bidders that provide for small business and microbusiness subcontractor participation, in the award of contracts for goods, information technology, services, and construction, as follows:

(1) In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to small business and microbusiness shall be 5 percent of the lowest responsible bidder meeting specifications. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be, up to a maximum of 5 percent of the lowest responsible bidder meeting specifications, determined according to rules and regulations established by the Department of General Services.

(2) In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to small business or microbusiness shall be 5 percent of the highest responsible bidder's total score. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be up to a maximum 5 percent of the highest responsible bidder's total score, determined according to rules and regulations established by the Department of General Services.

(3) The preferences under paragraphs (1) and (2) ~~may~~ *shall* not be awarded to a noncompliant bidder and ~~may~~ *shall* not be used to achieve any applicable minimum requirements.

(4) The preference under paragraph (1) ~~may~~ *shall* not exceed fifty thousand dollars (\$50,000) for any bid, and the combined cost of preferences granted pursuant to paragraph (1) and any other provision of law ~~may~~ *shall* not exceed one hundred thousand dollars (\$100,000). In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar (\$50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses, including ~~microbusiness~~ *microbusinesses*, in the contract award.

(c) Give special consideration to small businesses and microbusinesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses and microbusinesses in the preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 10163 of the Public Contract Code, make awards, whenever feasible, to small business and microbusiness bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business or microbusiness contractor to qualify to bid on these subprojects.

(f) Small business and microbusiness bidders qualified in accordance with ~~the provisions of~~ this chapter shall have precedence over nonsmall business bidders in that the application of ~~any~~ a bidder preference for which nonsmall business bidders may be eligible under this ~~provision~~ *section* or any other provision of law shall not result in the denial of the award to a small business or microbusiness bidder. In the event of a precise tie between the low responsible bid of a bidder meeting specifications of a small business or microbusiness, and the low responsible bid of a bidder meeting the specifications of a disabled veteran-owned small business or microbusiness, the contract shall be awarded to the disabled veteran-owned small business or microbusiness. This provision applies if the small business or microbusiness bidder is the lowest responsible bidder, as well as if the small business or microbusiness bidder is eligible for award as the result of application of the small business and microbusiness bidder preference granted by subdivision (b).

1 SEC. 99. Section 15820.104 of the Government Code is  
2 amended to read:

3 15820.104. (a) The State Public Works Board may issue up  
4 to one hundred forty-six million one hundred sixty thousand dollars  
5 (\$146,160,000) in revenue bonds, negotiable notes, or negotiable  
6 bond anticipation notes pursuant to this part, to finance the design  
7 and construction for the project. The revenue bonds, negotiable  
8 notes, or negotiable bond anticipation notes authorized in this  
9 chapter shall reduce the amount of revenue bonds, negotiable notes,  
10 or negotiable bond anticipation notes the board is authorized to  
11 issue pursuant to subdivision (a) of Section 15819.403 for the  
12 construction authorized by subdivision (c) of Section 15819.40.  
13 None of the provisions of Chapter 3.2.1 of this part, as it may be  
14 amended from time to time, (commencing with Section 15819.40)  
15 shall apply to the project.

16 (b) The department may borrow funds for project costs from  
17 the Pooled Money Investment Account pursuant to Sections 16312  
18 and 16313 or from any other appropriate source. In the event any  
19 of the revenue bonds, notes, or bond anticipation notes authorized  
20 by this chapter are not sold, the department shall commit a  
21 sufficient amount of its support appropriation to repay any loans  
22 made from the Pooled Money Investment Account for an approved  
23 project.

24 (c) The costs of financing include, but are not limited to, interest  
25 during construction of the project, a reasonably required reserve  
26 fund, and the cost of issuance of permanent financing.

27 (d) The department and the board shall execute and deliver any  
28 and all leases, contracts, agreements, or other documents necessary  
29 for the sale of bonds or other financing for the project.

30 (e) Proceeds of the revenue bonds, notes, or bond anticipation  
31 notes may be used to reimburse the department for the costs of  
32 preliminary plans, working drawings, and construction; for the  
33 project.

34 (f) Notwithstanding Section 13340, funds derived pursuant to  
35 this section are continuously appropriated for purposes of this  
36 chapter.

37 SEC. 100. Section 15820.105 of the Government Code is  
38 amended to read:

39 15820.105. (a) ~~All plans~~ Plans and specifications for the  
40 project shall comply with all applicable building codes.

(b) The project is hereby deemed a “public work” project for purposes of ~~Sections 3082 to 3267, inclusive, Title 15 (commencing with Section 3082) of Part 4 of Division 3~~ of the Civil Code.

(c) The provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code shall apply to all public works contracts entered into for the project.

(d) Other than as provided in this section and Sections 15820.101, ~~15820.102, 15820.103, to~~ and 15820.104, *inclusive*, private sector methods may be used to deliver the project. Specifically, the procurement and contracting for the delivery of the project is not subject to the State Contract Act (*Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code*) or any other provision of California law governing public procurement or public works projects.

SEC. 101. Section 19609 of the Government Code is amended to read:

19609. (a) For ~~any~~ a demonstration project made permanent pursuant to legislation operative on or after January 1, 2008, a department participating in the demonstration project shall file a report on all aspects of the demonstration project with the State Personnel Board. The report shall include, but ~~is not~~ *be* limited to, all of the following:

(1) The number of applicants.

(2) The number of applicants that were hired.

(3) The cost of the hiring process.

(4) The number and nature of examination appeals.

(5) The length of time to complete the hiring and testing process.

(b) For a three-year period from the date that the demonstration project becomes permanent, the department shall file the report described in subdivision (a) on an annual basis. After the expiration of ~~this~~ *the* three-year period, the department shall file a report if a report is requested by the State Personnel Board.

(c) When the State Personnel Board receives a report described in this section, the State Personnel Board may hold a public hearing to provide for the exchange of information and an opportunity for public comment about the demonstration project that is the subject of the report.

SEC. 102. Section 27293 of the Government Code is amended to read:

1 27293. (a) (1) Except as otherwise provided in subdivision  
2 (b), if an instrument intended for record is executed or certified in  
3 whole or in part in ~~any~~ a language other than English, the recorder  
4 shall not accept the instrument for record.

5 (2) (A) A translation in English of an instrument executed or  
6 certified in whole or in part in ~~any~~ a language other than English  
7 may be presented to the county clerk for verification that the  
8 translation was performed by a certified or registered court  
9 interpreter, as described in Section 68561 of the Government Code,  
10 or by an accredited translator registered with the American  
11 Translators Association. The translation shall be accompanied by  
12 a notarized declaration by the interpreter or translator that the  
13 translation is true and accurate, and includes the certification,  
14 qualification, or registration of the interpreter or translator. The  
15 clerk shall consult ~~a~~ an Internet Web site maintained by the Judicial  
16 Council or the American Translators Association in verifying the  
17 certification, qualification, or registration of the interpreter or  
18 translator.

19 (B) Upon verification that the translation was performed by an  
20 interpreter or translator described in subparagraph (A), and that  
21 the translation is accompanied by a notarized declaration as  
22 required pursuant to subparagraph (A), the clerk shall duly make  
23 certification of that verification under seal of the county, attach  
24 the certification to the translation, and attach the certified  
25 translation to the original instrument.

26 (C) For this verification and certification, a fee of ten dollars  
27 (\$10) shall be paid to the county clerk for each document submitted  
28 for certification. The attached original instrument and certified  
29 translation may be presented to the recorder, and, upon payment  
30 of the usual fees, the recorder shall accept and permanently file  
31 the instrument and record the certified translation. The recording  
32 of the certified translation gives notice and is of the same effect  
33 as the recording of an original instrument. Certified copies of the  
34 recorded translation may be recorded in other counties, with the  
35 same effect as the recording of the original translation, provided,  
36 however, that in those counties where a photostatic or photographic  
37 method of recording is employed, the whole instrument, including  
38 the foreign language and the translation, may be recorded, and the  
39 original instrument returned to the party leaving it for record or  
40 upon his or her order.

(b) The provisions of subdivision (a) do not apply to any instrument offered for record that contains provisions in English and a translation of the English provisions in ~~any~~ a language other than English, provided that the English provisions and the translation thereof are specifically set forth in state or federal law.

(c) The county clerk is not required to issue a translation certificate if he or she is unable to confirm the certification, registration, or accreditation of the translator, as required in subdivision (a).

SEC. 103. Section 27361 of the Government Code is amended to read:

27361. (a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is four dollars (\$4) for recording the first page and three dollars (\$3) for each additional page, except the recorder may charge additional fees as follows:

(1) If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence, the recorder shall charge one dollar (\$1) extra for each page or sheet on which printing appears ~~excepting~~, *except*, however, the extra charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(2) If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars (\$3) extra per page or sheet of the document. The *funds generated by the* extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(b) One dollar (\$1) of each three dollar (\$3) fee for each additional page shall be deposited in the county general fund.

(c) Notwithstanding Section 68085, one dollar (\$1) for recording the first page and one dollar (\$1) for each additional page shall be available solely to support, maintain, improve, and provide for the

1 full operation for modernized creation, retention, and retrieval of  
2 information in each county's system of recorded documents.

3 (d) (1) In addition to all other fees authorized by this section,  
4 a county recorder may charge a fee of one dollar (\$1) for recording  
5 the first page of every instrument, paper, or notice required or  
6 permitted by law to be recorded, as authorized by each county's  
7 board of supervisors. The funds generated by this fee shall be used  
8 only by the county recorder collecting the fee for the purpose of  
9 implementing a social security number truncation program pursuant  
10 to Article 3.5 (commencing with Section 27300).

11 (2) A county recorder shall not charge the fee described in  
12 paragraph (1) after December 31, 2017, unless the county recorder  
13 has received reauthorization by the county's board of supervisors.  
14 A county recorder shall not seek reauthorization of the fee by the  
15 board before June 1, 2017, or after December 31, 2017. In  
16 determining the additional period of authorization, the board shall  
17 consider the review described in paragraph (4) ~~of this subdivision~~.

18 (3) Notwithstanding paragraph (2), a county recorder who,  
19 pursuant to subdivision (c) of Section 27304, secures a revenue  
20 anticipation loan, or other outside source of funding, for the  
21 implementation of a social security *number* truncation program,  
22 may be authorized to charge the fee described in paragraph (1) for  
23 a period not to exceed the term of repayment of the loan or other  
24 outside source of funding.

25 (4) A county board of supervisors that authorizes the fee  
26 described in this subdivision shall require the county auditor to  
27 conduct two reviews to verify that the funds generated by this fee  
28 are used only for the purpose of the program, as described in Article  
29 3.5 (commencing with Section 27300) and for conducting these  
30 reviews. The reviews shall state the progress of the county recorder  
31 in truncating recorded documents pursuant to subdivision (a) of  
32 Section 27301, and shall estimate any ongoing costs to the county  
33 recorder of complying with subdivisions (a) and (b) of Section  
34 27301. The board shall require that the first review be completed  
35 not before June 1, 2012, or after December 31, 2013, and that the  
36 second review be completed not before June 1, 2017, or after  
37 December 31, 2017. The reviews shall adhere to generally accepted  
38 accounting standards, and the review results shall be made available  
39 to the public.

1 SEC. 104. Section 31521.3 of the Government Code is amended  
2 to read:

3 31521.3. (a) The board of supervisors may provide that the  
4 fourth, fifth, sixth, eighth, ninth, and alternate retired members of  
5 the board of retirement shall receive compensation for the review  
6 and analysis of disability retirement cases. ~~That~~ *The* compensation  
7 shall be limited to the first time a case is considered by the board  
8 and shall not exceed one hundred dollars (\$100) per day. The  
9 compensation shall be prorated for less than eight hours of work  
10 in a single day.

11 (b) A board member compensated pursuant to subdivision (a)  
12 shall certify to the retirement board, in a manner specified by the  
13 retirement board, the number of hours spent reviewing disability  
14 cases each month. ~~In no event shall the~~ *The* number of hours  
15 compensated under this section *shall not* exceed 32 hours per  
16 month.

17 (c) On or before March 31, 2010, and on or before March 31 in  
18 each even-numbered year thereafter, the compensation limit  
19 established by the board of supervisors pursuant to subdivision (a)  
20 shall be adjusted biennially by the board of retirement to reflect  
21 any change in the Consumer Price Index for the Los Angeles,  
22 Riverside, and Orange County areas that has occurred in the  
23 previous two calendar years, rounded to the nearest dollar.

24 ~~(e)~~

25 (d) This section shall apply only in a county of the first class,  
26 as defined by Section 28020, as amended by Chapter 1204 of the  
27 Statutes of 1971, and Section 28022, as amended by Chapter 43  
28 of the Statutes of 1961.

29 SEC. 105. Section 31739.33 of the Government Code is  
30 amended to read:

31 31739.33. (a) Except as provided in subdivision (b), a  
32 retirement allowance, optional death allowance, or annual death  
33 allowance, including an allowance payable to a survivor of a  
34 member, payable to or on account of any member of this system  
35 or of a superseded system who has been or was retired for disability  
36 which did not on July 1, 1976, exceed five hundred dollars (\$500)  
37 per month is hereby increased as follows:



Number of years of county or district service	Percentage of increase in monthly retirement allowance
25 or more years.....	10%
20–25 years.....	8%
15–20 years.....	6%

(b) No allowance shall be increased to more than five hundred dollars (\$500) per month pursuant to subdivision (a).

This section shall not be operative in ~~any~~ a county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in ~~such~~ that county.

SEC. 106. Section 53343.1 of the Government Code is amended to read:

53343.1. ~~For any~~ A community facilities district formed after January 1, 1992, ~~the community facilities district~~ shall, prepare, if requested by a person who resides in or owns property in the district, within 120 days after the last day of each fiscal year, a separate document titled an “Annual Report.” The district may charge a fee for the report not exceeding the actual costs of preparing the report. The report shall include the following information for the fiscal year:

- (a) The amount of special taxes collected for the year.
- (b) The amount of other moneys collected for the year and their source, including interest earned.
- (c) The amount of moneys expended for the year.
- (d) A summary of the amount of moneys expended for the following:
  - (1) Facilities, including property.
  - (2) Services.
  - (3) The costs of bonded indebtedness.
  - (4) The costs of collecting the special tax under Section 53340.
  - (5) Other administrative and overhead costs.
- (e) For moneys expended for facilities, including property, an identification of the categories of each type of facility funded with amounts expended in each category, including the total percentage of the cost of each type of facility that was funded with bond proceeds or special taxes.

1 (f) For moneys expended for services, an identification of the  
2 categories of each type of service funded with amounts expended  
3 in each category, including the total percentage of the cost of each  
4 type of service that was funded with bond proceeds or special  
5 taxes.

6 (g) For moneys expended for other administrative costs, an  
7 identification of each of these costs.

8 (h) ~~The Annual Report~~ *annual report* shall contain references  
9 to the relevant sections of the resolution of formation of the district  
10 so that interested persons may confirm that bond proceeds and  
11 special taxes are being used for authorized purposes. The annual  
12 report shall be made available to the public upon request.

13 SEC. 107. Section 53601 of the Government Code is amended  
14 to read:

15 53601. This section shall apply to a local agency that is a city,  
16 a district, or other local agency that does not pool money in  
17 deposits or investments with other local agencies, other than local  
18 agencies that have the same governing body. However, Section  
19 53635 shall apply to all local agencies that pool money in deposits  
20 or investments with other local agencies that have separate  
21 governing bodies. The legislative body of a local agency having  
22 ~~money moneys~~ in a sinking fund or ~~money moneys~~ in its treasury  
23 not required for the immediate needs of the local agency may invest  
24 any portion of the ~~money moneys~~ that it deems wise or expedient  
25 in those investments set forth below. A local agency purchasing  
26 or obtaining any securities prescribed in this section, in a  
27 negotiable, bearer, registered, or nonregistered format, shall require  
28 delivery of the securities to the local agency, including those  
29 purchased for the agency by financial advisers, consultants, or  
30 managers using the agency's funds, by book entry, physical  
31 delivery, or by third-party custodial agreement. The transfer of  
32 securities to the counterparty bank's customer book entry account  
33 may be used for book entry delivery.

34 For purposes of this section, "counterparty" means the other  
35 party to the transaction. A counterparty bank's trust department  
36 or separate safekeeping department may be used for the physical  
37 delivery of the security if the security is held in the name of the  
38 local agency. Where this section specifies a percentage limitation  
39 for a particular category of investment, that percentage is applicable  
40 only at the date of purchase. Where this section does not specify

1 a limitation on the term or remaining maturity at the time of the  
2 investment, no investment shall be made in any security, other  
3 than a security underlying a repurchase or reverse repurchase  
4 agreement or securities lending agreement authorized by this  
5 section, that at the time of the investment has a term remaining to  
6 maturity in excess of five years, unless the legislative body has  
7 granted express authority to make that investment either  
8 specifically or as a part of an investment program approved by the  
9 legislative body no less than three months prior to the investment:

10 (a) Bonds issued by the local agency, including bonds payable  
11 solely out of the revenues from a revenue-producing property  
12 owned, controlled, or operated by the local agency or by a  
13 department, board, agency, or authority of the local agency.

14 (b) United States Treasury notes, bonds, bills, or certificates of  
15 indebtedness, or those for which the faith and credit of the United  
16 States are pledged for the payment of principal and interest.

17 (c) Registered state warrants or treasury notes or bonds of this  
18 state, including bonds payable solely out of the revenues from a  
19 revenue-producing property owned, controlled, or operated by the  
20 state or by a department, board, agency, or authority of the state.

21 (d) Registered treasury notes or bonds of any of the other 49  
22 United States in addition to California, including bonds payable  
23 solely out of the revenues from a revenue-producing property  
24 owned, controlled, or operated by a state or by a department, board,  
25 agency, or authority of any of the other 49 United States, in  
26 addition to California.

27 (e) Bonds, notes, warrants, or other evidences of indebtedness  
28 of ~~any~~ a local agency within this state, including bonds payable  
29 solely out of the revenues from a revenue-producing property  
30 owned, controlled, or operated by the local agency, or by a  
31 department, board, agency, or authority of the local agency.

32 (f) Federal agency or United States government-sponsored  
33 enterprise obligations, participations, or other instruments,  
34 including those issued by or fully guaranteed as to principal and  
35 interest by federal agencies or United States government-sponsored  
36 enterprises.

37 (g) Bankers' acceptances otherwise known as bills of exchange  
38 or time drafts that are drawn on and accepted by a commercial  
39 bank. Purchases of bankers' acceptances ~~may~~ *shall* not exceed 180  
40 days' maturity or 40 percent of the agency's ~~money~~ *moneys* that

1 may be invested pursuant to this section. However, no more than  
2 30 percent of the agency's ~~money~~ *moneys* may be invested in the  
3 bankers' acceptances of any one commercial bank pursuant to this  
4 section.

5 This subdivision does not preclude a municipal utility district  
6 from investing ~~any money~~ *moneys* in its treasury in ~~any a~~ manner  
7 authorized by the Municipal Utility District Act (Division 6  
8 (commencing with Section 11501) of the Public Utilities Code).

9 (h) Commercial paper of "prime" quality of the highest ranking  
10 or of the highest letter and number rating as provided for by a  
11 nationally recognized ~~statistical-rating~~ *statistical rating*  
12 organization (NRSRO). The entity that issues the commercial  
13 paper shall meet all of the following conditions in either paragraph  
14 (1) or ~~paragraph~~ (2):

15 (1) The entity meets the following criteria:

16 (A) Is organized and operating in the United States as a general  
17 corporation.

18 (B) Has total assets in excess of five hundred million dollars  
19 (\$500,000,000).

20 (C) Has debt other than commercial paper, if any, that is rated  
21 "A" or higher by ~~a nationally recognized statistical-rating~~  
22 ~~organization (NRSRO)~~ *an NRSRO*.

23 (2) The entity meets the following criteria:

24 (A) Is organized within the United States as a special purpose  
25 corporation, trust, or limited liability company.

26 (B) Has programwide credit enhancements including, but not  
27 limited to, overcollateralization, letters of credit, or *a* surety bond.

28 (C) Has commercial paper that is rated "A-1" or higher, or the  
29 equivalent, by ~~a nationally recognized statistical-rating organization~~  
30 ~~(NRSRO)~~ *an NRSRO*.

31 Eligible commercial paper shall have a maximum maturity of  
32 270 days or less. Local agencies, other than counties or a city and  
33 county, may invest no more than 25 percent of their ~~money~~ *moneys*  
34 in eligible commercial paper. Local agencies, other than counties  
35 or a city and county, may purchase no more than 10 percent of the  
36 outstanding commercial paper of any single issuer. Counties or a  
37 city and county may invest in commercial paper pursuant to the  
38 concentration limits in subdivision (a) of Section 53635.

39 (i) Negotiable certificates of deposit issued by a nationally or  
40 state-chartered bank, a savings association or a federal association

1 (as defined by Section 5102 of the Financial Code), a state or  
2 federal credit union, or by a state-licensed branch of a foreign  
3 bank. Purchases of negotiable certificates of deposit may not  
4 exceed 30 percent of the agency's ~~money~~ *which moneys* that may  
5 be invested pursuant to this section. For purposes of this section,  
6 negotiable certificates of deposit do not come within Article 2  
7 (commencing with Section 53630), except that the amount so  
8 invested shall be subject to the limitations of Section 53638. The  
9 legislative body of a local agency and the treasurer or other official  
10 of the local agency having legal custody of the ~~money~~ *moneys* are  
11 prohibited from investing local agency funds, or funds in the  
12 custody of the local agency, in negotiable certificates of deposit  
13 issued by a state or federal credit union if a member of the  
14 legislative body of the local agency, or ~~any~~ *a* person with  
15 investment decisionmaking authority in the administrative office  
16 manager's office, budget office, auditor-controller's office, or  
17 treasurer's office of the local agency also serves on the board of  
18 directors, or any committee appointed by the board of directors,  
19 or the credit committee or the supervisory committee of the state  
20 or federal credit union issuing the negotiable certificates of deposit.

21 (j) (1) Investments in repurchase agreements or reverse  
22 repurchase agreements or securities lending agreements of ~~any~~  
23 securities authorized by this section, as long as the agreements are  
24 subject to this subdivision, including the delivery requirements  
25 specified in this section.

26 (2) Investments in repurchase agreements may be made, on ~~any~~  
27 *an* investment authorized in this section, when the term of the  
28 agreement does not exceed one year. The market value of securities  
29 that ~~underlay~~ *underlie* a repurchase agreement shall be valued at  
30 102 percent or greater of the funds borrowed against those  
31 securities and the value shall be adjusted no less than quarterly.  
32 Since the market value of the underlying securities is subject to  
33 daily market fluctuations, the investments in repurchase agreements  
34 shall be in compliance if the value of the underlying securities is  
35 brought back up to 102 percent no later than the next business day.

36 (3) Reverse repurchase agreements or securities lending  
37 agreements may be utilized only when all of the following  
38 conditions are met:

39 (A) The security to be sold ~~on~~ *using a* reverse repurchase  
40 agreement or securities lending agreement has been owned and

1 fully paid for by the local agency for a minimum of 30 days prior  
2 to sale.

3 (B) The total of all reverse repurchase agreements and securities  
4 lending agreements on investments owned by the local agency  
5 does not exceed 20 percent of the base value of the portfolio.

6 (C) The agreement does not exceed a term of 92 days, unless  
7 the agreement includes a written codicil guaranteeing a minimum  
8 earning or spread for the entire period between the sale of a security  
9 using a reverse repurchase agreement or securities lending  
10 agreement and the final maturity date of the same security.

11 (D) Funds obtained or funds within the pool of an equivalent  
12 amount to that obtained from selling a security to a counterparty  
13 ~~by way of~~ *using* a reverse repurchase agreement or securities  
14 lending agreement shall not be used to purchase another security  
15 with a maturity longer than 92 days from the initial settlement date  
16 of the reverse repurchase agreement or securities lending  
17 agreement, unless the reverse repurchase agreement or securities  
18 lending agreement includes a written codicil guaranteeing a  
19 minimum earning or spread for the entire period between the sale  
20 of a security using a reverse repurchase agreement or securities  
21 lending agreement and the final maturity date of the same security.

22 (4) (A) Investments in reverse repurchase agreements, securities  
23 lending agreements, or similar investments in which the local  
24 agency sells securities prior to purchase with a simultaneous  
25 agreement to repurchase the security may ~~only~~ be made *only* upon  
26 prior approval of the governing body of the local agency and shall  
27 ~~only~~ be made *only* with primary dealers of the Federal Reserve  
28 Bank of New York or with a nationally or state-chartered bank  
29 that has or has had a significant banking relationship with a local  
30 agency.

31 (B) For purposes of this chapter, “significant banking  
32 relationship” means any of the following activities of a bank:

33 (i) Involvement in the creation, sale, purchase, or retirement of  
34 a local agency’s bonds, warrants, notes, or other evidence of  
35 indebtedness.

36 (ii) Financing of a local agency’s activities.

37 (iii) Acceptance of a local agency’s securities or funds as  
38 deposits.

39 (5) (A) “Repurchase agreement” means a purchase of securities  
40 by the local agency pursuant to an agreement by which the

1 counterparty seller will repurchase the securities on or before a  
2 specified date and for a specified amount and the counterparty will  
3 deliver the underlying securities to the local agency by book entry,  
4 physical delivery, or by third-party custodial agreement. The  
5 transfer of underlying securities to the counterparty bank's  
6 customer book-entry account may be used for book-entry delivery.

7 (B) "Securities," for purpose of repurchase under this  
8 subdivision, means securities of the same issuer, description, issue  
9 date, and maturity.

10 (C) "Reverse repurchase agreement" means a sale of securities  
11 by the local agency pursuant to an agreement by which the local  
12 agency will repurchase the securities on or before a specified date  
13 and includes other comparable agreements.

14 (D) "Securities lending agreement" means an agreement under  
15 which a local agency agrees to transfer securities to a borrower  
16 who, in turn, agrees to provide collateral to the local agency.  
17 During the term of the agreement, both the securities and the  
18 collateral are held by a third party. At the conclusion of the  
19 agreement, the securities are transferred back to the local agency  
20 in return for the collateral.

21 (E) For purposes of this section, the base value of the local  
22 agency's pool portfolio shall be that dollar amount obtained by  
23 totaling all cash balances placed in the pool by all pool participants,  
24 excluding any amounts obtained through selling securities by way  
25 of reverse repurchase agreements, securities lending agreements,  
26 or other similar borrowing methods.

27 (F) For purposes of this section, the spread is the difference  
28 between the cost of funds obtained using the reverse repurchase  
29 agreement and the earnings obtained on the reinvestment of the  
30 funds.

31 (k) Medium-term notes, defined as all corporate and depository  
32 institution debt securities with a maximum remaining maturity of  
33 five years or less, issued by corporations organized and operating  
34 within the United States or by depository institutions licensed by  
35 the United States or any state and operating within the United  
36 States. Notes eligible for investment under this subdivision shall  
37 be rated "A" or better by ~~a nationally recognized rating service~~ *an*  
38 *NRSRO*. Purchases of medium-term notes shall not include other  
39 instruments authorized by this section and may not exceed 30

1 percent of the agency's ~~money~~ *moneys* that may be invested  
2 pursuant to this section.

3 (l) (1) Shares of beneficial interest issued by diversified  
4 management companies that invest in the securities and obligations  
5 as authorized by subdivisions (a) to (j), inclusive, or subdivisions  
6 (m) or (n) and that comply with the investment restrictions of this  
7 article and Article 2 (commencing with Section 53630). However,  
8 notwithstanding these restrictions, a counterparty to a reverse  
9 repurchase agreement or securities lending agreement is not  
10 required to be a primary dealer of the Federal Reserve Bank of  
11 New York if the company's board of directors finds that the  
12 counterparty presents a minimal risk of default, and the value of  
13 the securities underlying a repurchase agreement or securities  
14 lending agreement may be 100 percent of the sales price if the  
15 securities are marked to market daily.

16 (2) Shares of beneficial interest issued by diversified  
17 management companies that are money market funds registered  
18 with the Securities and Exchange Commission under the  
19 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

20 (3) If investment is in shares issued pursuant to paragraph (1),  
21 the company shall have met either of the following criteria:

22 (A) Attained the highest ranking or the highest letter and  
23 numerical rating provided by not less than two ~~nationally~~  
24 ~~recognized statistical rating organizations~~ *NRSROs*.

25 (B) Retained an investment adviser registered or exempt from  
26 registration with the Securities and Exchange Commission with  
27 not less than five years' experience investing in the securities and  
28 obligations authorized by subdivisions (a) to (j), inclusive, or  
29 subdivisions (m) or (n) and with assets under management in excess  
30 of five hundred million dollars (\$500,000,000).

31 (4) If investment is in shares issued pursuant to paragraph (2),  
32 the company shall have met either of the following criteria:

33 (A) Attained the highest ranking or the highest letter and  
34 numerical rating provided by not less than two nationally  
35 recognized statistical rating organizations.

36 (B) Retained an investment adviser registered or exempt from  
37 registration with the Securities and Exchange Commission with  
38 not less than five years' experience managing money market  
39 mutual funds with assets under management in excess of five  
40 hundred million dollars (\$500,000,000).



(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include ~~any~~ commission that the companies may charge and shall not exceed 20 percent of the agency's ~~money~~ *moneys* that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(o) ~~Any~~—A mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by ~~a nationally recognized rating service~~ *an NRSRO* and rated in a rating category of "AA" or its equivalent or better by ~~a nationally recognized rating service~~ *an NRSRO*. Purchase of securities authorized by this

1 subdivision may not exceed 20 percent of the agency's surplus  
2 ~~money moneys~~ that may be invested pursuant to this section.

3 (p) Shares of beneficial interest issued by a joint powers  
4 authority organized pursuant to Section 6509.7 that invests in the  
5 securities and obligations authorized in subdivisions (a) to (n),  
6 inclusive. Each share shall represent an equal proportional interest  
7 in the underlying pool of securities owned by the joint powers  
8 authority. To be eligible under this section, the joint powers  
9 authority issuing the shares shall have retained an investment  
10 adviser that meets all of the following criteria:

11 (1) The adviser is registered or exempt from registration with  
12 the Securities and Exchange Commission.

13 (2) The adviser has not less than five years of experience  
14 investing in the securities and obligations authorized in  
15 subdivisions (a) to (n), inclusive.

16 (3) The adviser has assets under management in excess of five  
17 hundred million dollars (\$500,000,000).

18 SEC. 108. Section 56100.1 of the Government Code is amended  
19 to read:

20 56100.1. A commission may require, through the adoption of  
21 written policies and procedures, the disclosure of contributions,  
22 as defined in Section 82015, expenditures, as defined in Section  
23 82025, and independent expenditures, as defined in Section 82031,  
24 made in support of or opposition to a proposal. Disclosure shall  
25 be made either to the commission's executive officer, in which  
26 case it shall be posted on the commission's *Internet* Web site, if  
27 applicable, or to the board of supervisors of the county in which  
28 the commission is located, which may designate a county officer  
29 to receive the disclosure. Disclosure pursuant to a requirement  
30 under the authority provided in this section shall be in addition to  
31 any disclosure otherwise required by Section 56700.1, the Political  
32 Reform Act of 1974 (Title 9 (commencing with Section 81000)),  
33 or local ordinance.

34 SEC. 109. Section 56700.1 of the Government Code is amended  
35 to read:

36 56700.1. Expenditures for political purposes related to a  
37 proposal for a change of organization or reorganization that will  
38 be submitted to a commission pursuant to this part, and;  
39 contributions in support of or in opposition to those proposals,  
40 shall be disclosed and reported to the commission to the same

1 extent and subject to the same requirements of the Political Reform  
2 Act of 1974 (Title 9 (commencing with Section 81000)) as provided  
3 for local initiative measures.

4 SEC. 110. Section 57009 of the Government Code is amended  
5 to read:

6 57009. Expenditures for political purposes related to  
7 proceedings for a change of organization or reorganization that  
8 will be conducted pursuant to this part, and contributions in support  
9 of; or in opposition to; those proceedings, shall be disclosed and  
10 reported to the commission to the same extent and subject to the  
11 same requirements of the Political Reform Act of 1974 (Title 9  
12 (commencing with Section 81000)); as provided for local initiative  
13 measures.

14 SEC. 111. Section 65007 of the Government Code is amended  
15 to read:

16 65007. As used in this title, the following terms have the  
17 following meanings, unless the context requires otherwise:

18 (a) "Adequate progress" means all of the following:

19 (1) The total project scope, schedule, and cost of the completed  
20 flood protection system have been developed to meet the  
21 appropriate standard of protection.

22 (2) Revenues sufficient to fund each year of the project schedule  
23 developed in paragraph (1) have been identified and, in any given  
24 year and consistent with that schedule, at least 90 percent of the  
25 revenues scheduled to have been received by that year have been  
26 appropriated and are currently being expended.

27 (3) Critical features of the flood protection system are under  
28 construction, and each critical feature is progressing as indicated  
29 by the actual expenditure of the construction budget funds.

30 (4) The city or county has not been responsible for ~~any~~ a  
31 significant delay in the completion of the system.

32 (5) The local flood management agency shall provide the  
33 Department of Water Resources and the Central Valley Flood  
34 Protection Board with the information specified in this subdivision  
35 ~~sufficiently~~ *sufficient* to determine substantial completion of the  
36 required flood protection. The local flood management agency  
37 shall annually report to the Central Valley Flood Protection Board  
38 on the efforts in working toward completion of the flood protection  
39 system.

1 (b) “Central Valley Flood Protection Plan” has the same  
2 meaning as that set forth in Section ~~9610~~ 9612 of the Water Code.

3 (c) “Developed area” has the same meaning as that set forth in  
4 Section 59.1 of Title 44 of the Code of Federal Regulations.

5 (d) “Flood hazard zone” means an area subject to flooding that  
6 is delineated as either a special hazard area or an area of moderate  
7 hazard on an official flood insurance rate map issued by the Federal  
8 Emergency Management Agency. The identification of flood  
9 hazard zones does not imply that areas outside the flood hazard  
10 zones, or uses permitted within flood hazard zones, will be free  
11 from flooding or flood damage.

12 (e) “Nonurbanized area” means a developed area or an area  
13 outside a developed area in which there are ~~less~~ *fewer* than 10,000  
14 residents.

15 (f) “Project levee” means any levee that is part of the facilities  
16 of the State Plan of Flood Control, ~~as defined in Section 5096.805~~  
17 ~~of the Public Resources Code.~~

18 (g) “Sacramento-San Joaquin Valley” means ~~any~~ lands in the  
19 bed or along or near the banks of the Sacramento River or San  
20 Joaquin River, or ~~any of~~ their tributaries or connected therewith,  
21 or upon any land adjacent thereto, or within ~~any of~~ the overflow  
22 basins thereof, or upon ~~any~~ land susceptible to overflow therefrom.  
23 The Sacramento-San Joaquin Valley does not include lands lying  
24 within the Tulare Lake basin, including the Kings River.

25 (h) “State Plan of Flood Control” has the same meaning as that  
26 set forth in subdivision (j) of Section 5096.805 of the Public  
27 Resources Code.

28 (i) “Urban area” means a developed area in which there are  
29 10,000 residents or more.

30 (j) “Urbanizing area” means a developed area or an area outside  
31 a developed area that is planned or anticipated to have 10,000  
32 residents or more within the next 10 years.

33 (k) “Urban level of flood protection” means the level of  
34 protection that is necessary to withstand flooding that has a  
35 1-in-200 chance of occurring in any given year using criteria  
36 consistent with, or developed by, the Department of Water  
37 Resources.

38 SEC. 112. Section 65865.5 of the Government Code is amended  
39 to read:

65865.5. (a) Notwithstanding any other provision of law, after the amendments required by Section 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for ~~any~~ property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system ~~which~~ *that* will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

~~(c) Nothing in this section shall be construed to~~ *This section does not* change or diminish existing requirements of local ~~floodplain~~ *flood plain* management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 113. Section 65917.5 of the Government Code is amended to read:

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) “Child care facility” means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) “Density bonus” means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) “Developer” means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make *an* application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) “Floor area” means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square

1 feet of floor area, a density bonus when that developer has set aside  
2 at least 2,000 square feet of floor area and 3,000 outdoor square  
3 feet to be used for a child care facility. The granting of a bonus  
4 shall not preclude a city council, including a charter city council,  
5 city and county board of supervisors, or county board of  
6 supervisors from imposing necessary conditions on the project or  
7 on the additional square footage. Projects constructed under this  
8 section shall conform to height, setback, lot coverage, architectural  
9 review, site plan review, fees, charges, and other health, safety,  
10 and zoning requirements generally applicable to construction in  
11 the zone in which the property is located. A consortium with more  
12 than one developer may be permitted to achieve the threshold  
13 amount for the available density bonus with each developer's  
14 density bonus equal to the percentage participation of the  
15 developer. This facility may be located on the project site or may  
16 be located offsite as agreed upon by the developer and local agency.  
17 If the child care facility is not located on the site of the project,  
18 the local agency shall determine whether the location of the child  
19 care facility is appropriate and whether it conforms with the intent  
20 of this section. The child care facility shall be of a size to comply  
21 with all state licensing requirements in order to accommodate at  
22 least 40 children.

23 (c) The developer may operate the child care facility itself or  
24 may contract with a licensed child care provider to operate the  
25 facility. In all cases, the developer shall show ongoing coordination  
26 with a local child care resource and referral network or local  
27 governmental child care coordinator in order to qualify for the  
28 density bonus.

29 (d) If the developer uses space allocated for child care facility  
30 purposes, in accordance with subdivision (b), for ~~any~~ purposes  
31 other than for a child care facility, an assessment based on the  
32 square footage of the project may be levied and collected by the  
33 city council, including a charter city council, city and county board  
34 of supervisors, or county board of supervisors. The assessment  
35 shall be consistent with the market value of the space. If the  
36 developer fails to have the space allocated for the child care facility  
37 within three years, from the date upon which the first temporary  
38 certificate of occupancy is granted, an assessment based on the  
39 square footage of the project may be levied and collected by the  
40 city council, including a charter city council, city and county board

1 of supervisors, or county board of supervisors in accordance with  
2 procedures to be developed by the legislative body of the city  
3 council, including a charter city council, city and county board of  
4 supervisors, or county board of supervisors. The assessment shall  
5 be consistent with the market value of the space. ~~Any~~ A penalty  
6 levied against a consortium of developers shall be charged to each  
7 developer in an amount equal to the developer's percentage square  
8 feet participation. Funds collected pursuant to this subdivision  
9 shall be deposited by the city council, including a charter city  
10 council, city and county board of supervisors, or county board of  
11 supervisors into a special account to be used for ~~child care~~ *child*  
12 *care* services or child care facilities.

13 (e) Once the child care facility has been established, prior to  
14 the closure, change in use, or reduction in the physical size of, the  
15 facility, the city, city council, including a charter city council, city  
16 and county board of supervisors, or county board of supervisors  
17 shall be required to make a finding that the need for child care is  
18 no longer present, or is not present to the same degree as it was at  
19 the time the facility was established.

20 (f) The requirements of Chapter 5 (commencing with Section  
21 66000) and of the amendments made to Sections 53077, 54997,  
22 and 54998, by Chapter 1002 of the Statutes of 1987 shall not apply  
23 to actions taken in accordance with this section.

24 (g) This section shall not apply to a voter-approved ordinance  
25 adopted by referendum or initiative.

26 SEC. 114. Section 65962 of the Government Code is amended  
27 to read:

28 65962. (a) Notwithstanding any other provision of law, after  
29 the amendments required by Sections 65302.9 and 65860.1 have  
30 become effective, each city and county within the Sacramento-San  
31 Joaquin Valley shall not approve ~~any~~ a discretionary permit or  
32 other discretionary entitlement, or ~~any~~ a ministerial permit that  
33 would result in the construction of a new residence, for a project  
34 that is located within a flood hazard zone unless the city or county  
35 finds, based on substantial evidence in the record, one of the  
36 following:

37 (1) The facilities of the State Plan of Flood Control or other  
38 flood management facilities protect the project to the urban level  
39 of flood protection in urban and urbanizing areas or the national



1 Federal Emergency Management Agency standard of flood  
2 protection in nonurbanized areas.

3 (2) The city or county has imposed conditions on the permit or  
4 discretionary entitlement that will protect the project to the urban  
5 level of flood protection in urban and urbanizing areas or the  
6 national Federal Emergency Management Agency standard of  
7 flood protection in nonurbanized areas.

8 (3) The local flood management agency has made adequate  
9 progress on the construction of a flood protection system which  
10 will result in flood protection equal to or greater than the urban  
11 level of flood protection in urban or urbanizing areas or the national  
12 Federal Emergency Management Agency standard of flood  
13 protection in nonurbanized areas for property located within a  
14 flood hazard zone, intended to be protected by the system. For  
15 urban and urbanizing areas protected by project levees, the urban  
16 level of flood protection shall be achieved by 2025.

17 (b) The effective date of amendments referred to in this section  
18 shall be the date upon which the statutes of limitation specified in  
19 subdivision (c) of Section 65009 have run or, if the amendments  
20 and any associated environmental documents are challenged in  
21 court, the validity of the amendments and any associated  
22 environmental documents has been upheld in a final decision.

23 (c) ~~Nothing in this section shall be construed to~~ *This section*  
24 *does not* change or diminish existing requirements of local  
25 ~~floodplain~~ *flood plain* management laws, ordinances, resolutions,  
26 or regulations necessary to local agency participation in the national  
27 flood insurance program.

28 SEC. 115. Section 66474.5 of the Government Code is amended  
29 to read:

30 66474.5. (a) Notwithstanding any other provision of law, after  
31 the amendments required by Sections 65302.9 and 65860.1 have  
32 become effective, the legislative body of each city and county  
33 within the Sacramento-San Joaquin Valley shall deny approval of  
34 a tentative map, or a parcel map for which a tentative map was not  
35 required, for ~~any~~ *a* subdivision that is located within a flood hazard  
36 zone unless the city or county finds, based on substantial evidence  
37 in the record, one of the following:

38 (1) The facilities of the State Plan of Flood Control or other  
39 flood management facilities protect the subdivision to the urban  
40 level of flood protection in urban and urbanizing areas or the

1 national Federal Emergency Management Agency standard of  
2 flood protection in nonurbanized areas.

3 (2) The city or county has imposed conditions on the subdivision  
4 that will protect the project to the urban level of flood protection  
5 in urban and urbanizing areas or the national Federal Emergency  
6 Management Agency standard of flood protection in nonurbanized  
7 areas.

8 (3) The local flood management agency has made adequate  
9 progress on the construction of a flood protection system which  
10 will result in flood protection equal to or greater than the urban  
11 level of flood protection in urban or urbanizing areas or the national  
12 Federal Emergency Management Agency standard of flood  
13 protection in nonurbanized areas for property located within a  
14 flood hazard zone, intended to be protected by the system. For  
15 urban and urbanizing areas protected by project levees, the urban  
16 level of flood protection shall be achieved by 2025.

17 (b) The effective date of amendments referred to in this section  
18 shall be the date upon which the statutes of limitation specified in  
19 subdivision (c) of Section 65009 have run or, if the amendments  
20 and any associated environmental documents are challenged in  
21 court, the validity of the amendments and any associated  
22 environmental documents has been upheld in a final decision.

23 (c) ~~Nothing in this section shall be construed to~~ *This section*  
24 *does not* change or diminish existing requirements of local  
25 ~~floodplain~~ *flood plain* management laws, ordinances, resolutions,  
26 or regulations necessary to local agency participation in the national  
27 flood insurance program.

28 SEC. 116. Section 66474.62 of the Government Code is  
29 amended to read:

30 66474.62. In cities having a population of more than 2,800,000,  
31 a legislative body shall not deny approval of a final subdivision  
32 map pursuant to ~~subdivision (c) of Section 66474.60 or Section~~  
33 66474.61 if it, the advisory agency, or the appeal board has  
34 previously approved a tentative map for the proposed subdivision  
35 and if it finds that the final map is in substantial compliance with  
36 the previously approved tentative map and with the conditions to  
37 the approval thereof.

38 SEC. 117. Section 66540.1 of the Government Code is amended  
39 to read:

1     66540.1. The Legislature hereby finds and declares all of the  
2 following:

3     (a) In 1999, based on the findings and analyses in a study  
4 sponsored by the Bay Area Council, the Legislature created the  
5 San Francisco Bay Area Water Transit Authority for the purposes  
6 of preparing a bay area water transit implementation and operations  
7 plan and operating a comprehensive regional public water  
8 transportation system. In 2002, after two years of study, public  
9 hearings, collaboration with existing ~~Bay Area~~ *bay area* transit  
10 and public transportation ferry service providers, and peer review,  
11 the San Francisco Bay Area Water Transit Authority submitted  
12 the required plan to the Legislature. The plan included rationale  
13 for expanded ferries, ridership projections and routes, potential  
14 terminal locations, capital, operating and maintenance costs, vessel  
15 specification, and emergency and safety response capabilities.

16     (b) While the efforts of the existing San Francisco Bay Area  
17 Water Transit Authority to develop a regional water transit plan  
18 are commendable, the country has seen several significant disasters,  
19 including the 9/11 tragedy and Hurricane Katrina, which have  
20 emphasized the need for coordinated emergency response. From  
21 the lessons learned from ~~these~~ *those* events, it is apparent that the  
22 bay area's current emergency response infrastructure is not  
23 sufficient to respond to emergencies of the magnitude witnessed  
24 in the past few years and anticipated in the future.

25     (c) In 2006, the Bay Area Council sponsored a study on the role  
26 a comprehensive public water transportation system would play  
27 in the bay area's emergency response infrastructure. The 2006  
28 study found that a comprehensive water transportation system is  
29 vital to emergency preparedness and response for the region. If  
30 bridges, roads, highways, tunnels, and trains are out of service as  
31 a result of an emergency, only the waters of the bay are certain to  
32 remain open for traffic. However, current infrastructure and  
33 equipment capabilities are grossly inadequate. Ferry terminals  
34 exist in only a few locations on the bay, and the vessel fleet lacks  
35 the capacity to make up for even one out-of-service bridge. The  
36 few vessels that exist are in the hands of many different public and  
37 private owners and operators, and there is no detailed plan or  
38 identified leader to activate and coordinate them.

39     (d) The study further urged ~~for that~~ *that* action ~~to~~ be taken  
40 immediately to strengthen and expand the regional public water

1 transportation system so that the bay area would be prepared in  
2 the event of a catastrophic emergency. The San Francisco Bay  
3 ~~Area area~~ is almost certain to experience moderate to severe  
4 earthquakes in the foreseeable future. A major earthquake or a  
5 series of earthquakes on any of the region's faults would have the  
6 potential of closing thousands of area roads and rendering some  
7 or all transbay bridges and mass transit lines impassable. With the  
8 regional transportation system disabled, first responders would be  
9 unable to help tens of thousands of homeless, injured, and starving  
10 victims. A failure of transportation would be particularly  
11 devastating to the most vulnerable of our population, the elderly,  
12 children, and the poor. The loss of any portion of the regional  
13 transportation system, from either *a* natural or ~~man-made~~ *manmade*  
14 disaster, would place lives and property at risk and would seriously  
15 undermine the San Francisco Bay ~~Area area~~ economy.

16 (e) It is the responsibility of the state to protect and preserve  
17 the right of its citizens to a safe and peaceful existence. To  
18 accomplish this goal and to minimize the destructive impact of  
19 disasters and other massive emergencies, the actions of numerous  
20 public agencies must be coordinated to effectively manage all four  
21 phases of emergency activity: preparedness, mitigation, response,  
22 and recovery. It is a matter of statewide interest to establish an  
23 expanded and coordinated regional water transportation system to  
24 provide necessary security, flexibility, and mobility for disaster  
25 response and recovery in the San Francisco Bay ~~Area area~~. This  
26 transcends any local interest, and requires a single governmental  
27 entity with appropriate powers and scope of authority to serve this  
28 statewide interest.

29 (f) As emergencies and other catastrophic events are certain  
30 (only the timing is unpredictable), it is crucial for immediate action  
31 to be taken to develop and implement these emergency response  
32 strategies. It is not only impractical, but rather impossible, to cobble  
33 together an emergency water transportation system after the fact.  
34 It is a task of years, not months, to make the real changes and  
35 create the essential infrastructure for an integrated and  
36 comprehensive water transit emergency system. In light of the  
37 ever-present threat, it is imperative to begin this crucial effort  
38 without delay.

39 (g) The public interest requires swift action and steadfast resolve  
40 to prepare for the coming earthquakes, as well as other

1 emergencies, with the speed and determination that is due for a  
2 threat of this magnitude. The water transit emergency response  
3 and recovery system must be fully implemented as quickly as  
4 possible, as if the lives of bay area residents depend on it, because  
5 they do.

6 (h) It is a matter of statewide interest to stimulate the maximum  
7 use of the San Francisco Bay for emergency response and recovery.  
8 The geographical situation of the San Francisco Bay makes it ideal  
9 for emergency response and recovery, but at the same time prevents  
10 the full utilization of the bay by acting as a physical barrier to an  
11 effective transportation system between the various jurisdictions  
12 surrounding the bay. Only a specially created local entity of  
13 regional government can freely operate in the numerous individual  
14 units of county, city and county, and city governments located in  
15 the area. In order to protect the lives and livelihoods of the bay  
16 area, the Legislature in this act establishes a new governmental  
17 entity specifically charged and empowered with the responsibility  
18 to plan, implement, and manage these critical services and facilities,  
19 as a matter of the utmost urgency.

20 SEC. 118. Section 66540.9 of the Government Code is amended  
21 to read:

22 66540.9. In order to properly plan and provide for emergency  
23 water transportation services and facilities, the authority shall have  
24 the authority to plan, develop, and operate all aspects of water  
25 transportation facilities within the bay area region, including, but  
26 not limited to, the location and development of terminals, parking  
27 lots and structures, and all other facilities and services necessary  
28 to serve passengers and other customers of the water transportation  
29 services system.

30 SEC. 119. Section 66540.10 of the Government Code is  
31 amended to read:

32 66540.10. The San Francisco Bay Area Water Transit Authority  
33 shall transfer the title and ownership of all property within its  
34 control and ownership to the authority. Funds necessary for the  
35 establishment and organization of the authority, as determined by  
36 the board of the authority, shall be transferred immediately upon  
37 request by the authority. All other transfers shall be consistent with  
38 the transition plan required under subdivision (b) of Section  
39 66540.32 and shall include, but not be limited to, all of the  
40 following:

(a) All real and personal property, including, but not limited to, all terminals, ferries, vehicles or facilities, parking facilities for passengers and employees, and related buildings and facilities convenient or necessary to operate, support, maintain, and manage the water transportation services system and its services to customers.

(b) All contracts with tenants, concessionaires, leaseholders, and others.

(c) All financial obligations secured by revenues and fees generated from the operations of the water transportation services system, including, but not limited to, bonded indebtedness associated with the water transportation services system.

(d) All financial reserves, including, but not limited to, sinking funds and other credits.

(e) All office equipment, including, but not limited to, computers, records and files, *and* software required for financial management, personnel management, and accounting and inventory systems.

SEC. 120. Section 66540.12 of the Government Code is amended to read:

66540.12. (a) The authority shall be governed by a board composed of five members, as follows:

(1) Three members shall be appointed by the Governor, subject to confirmation by the Senate. The Governor shall make the initial appointment of these members of the board ~~within 10 days after the effective date of this title~~ *no later than January 11, 2008*.

(2) One member shall be appointed by the Senate Committee on Rules.

(3) One member shall be appointed by the Speaker of the Assembly.

(b) Each member of the board shall be a resident of a county in the bay area region.

(c) Public officers associated with ~~any~~ *an* area of government, including planning or water, whether elected or appointed, may be appointed to serve contemporaneously as members of the board. ~~No~~ A local jurisdiction or agency ~~may~~ *shall not* have more than one representative on the board of the authority.

(d) The Governor shall designate one member as the chair of the board and one member as the vice chair of the board.

(e) The term of a member of the board shall be six years.

1 (f) Vacancies shall be ~~immediately~~ filled *immediately* by the  
2 appointing power for the unexpired portion of the terms in which  
3 they occur.

4 SEC. 121. Section 66540.32 of the Government Code is  
5 amended to read:

6 66540.32. (a) The authority shall create and adopt, on or before  
7 July 1, 2009, an emergency water transportation system  
8 management plan for water transportation services in the bay area  
9 region in the event that bridges, highways, and other facilities are  
10 rendered wholly or significantly inoperable.

11 (b) The authority shall create and adopt, on or before January  
12 1, 2009, a transition plan to facilitate the transfer of existing public  
13 transportation ferry services within the bay area region to the  
14 authority pursuant to this title. In the preparation of the transition  
15 plan, priority shall be given to ensuring continuity in the programs,  
16 services, and activities of existing public transportation ferry  
17 services.

18 (c) In developing the plans described in subdivisions (a) and  
19 (b), the authority shall cooperate to the fullest extent possible with  
20 the Metropolitan Transportation Commission, the ~~State~~ *state* Office  
21 of Emergency Services, the Association of Bay Area Governments,  
22 and the San Francisco Bay Conservation and Development  
23 Commission, and shall, to the fullest extent possible, coordinate  
24 its planning with local agencies, including those local ~~agencies~~  
25 *agencies* that operated, or contracted for the operation of, public  
26 water transportation services as of the effective date of this title.:  
27 To avoid duplication of work, the authority shall make maximum  
28 use of data and information available from the planning programs  
29 of the Metropolitan Transportation Commission, the ~~State~~ *state*  
30 Office of Emergency Services, the Association of Bay Area  
31 Governments, the San Francisco Bay Conservation and  
32 Development Commission, the cities and counties in the San  
33 Francisco Bay area, and other public and private planning agencies.  
34 In addition, the authority shall consider both of the following:

35 (1) The San Francisco Bay Area Water Transit Implementation  
36 and Operations Plan adopted by the San Francisco Bay Area Water  
37 Transit Authority on July 10, 2003.

38 (2) Any other plan concerning water transportation within the  
39 bay area region developed or adopted by ~~any~~ *a* general purpose  
40 local government or special district that operates or sponsors water

1 transit, including, but not limited to, those water transportation  
2 services provided under agreement with a private operator.

3 (d) The authority shall prepare a specific transition plan for any  
4 transfer not anticipated by the transition plan required under  
5 subdivision (b).

6 (e) At least 45 days prior to adoption of the plans required by  
7 subdivisions (a) and (b), the authority shall provide a copy of the  
8 plan adopted pursuant to subdivision (a) and the plan adopted  
9 pursuant to subdivision (b) to each city and county in the bay area  
10 region. Any of these cities or counties may provide comments on  
11 these plans to the authority.

12 SEC. 122. Section 66540.34 of the Government Code, as added  
13 by Section 2, first occurrence, of Chapter 734 of the Statutes of  
14 2007, is amended and renumbered to read:

15 ~~66540.34.~~

16 66540.33. The authority shall refer for recommendation the  
17 plans of routes, rights of way, terminals, yards, and related facilities  
18 and improvements to the city councils and boards of supervisors  
19 within—~~whose~~ *the jurisdiction of which* those facilities and  
20 improvements lie and to—~~any~~ other state, regional, and local  
21 agencies and commissions as may be deemed appropriate by the  
22 authority. The authority shall give due consideration to all  
23 recommendations submitted.

24 SEC. 123. Section 66540.54 of the Government Code is  
25 amended to read:

26 66540.54. (a) The authority shall maintain accounting records  
27 and shall report accounting transactions in accordance with  
28 generally accepted accounting principles as adopted by the  
29 ~~Government~~ *Governmental* Accounting Standards Board (GASB)  
30 of the Financial Accounting Foundation for both public reporting  
31 purposes and for reporting of activities to the Controller.

32 (b) The authority shall contract with an independent certified  
33 public—~~account~~ *accountant* for an annual audit of the financial  
34 records, books, and performance of the authority. The accountant  
35 shall submit a report of the audit to the board and the board shall  
36 make copies of the report available to the public and the appropriate  
37 policy and fiscal committees of the Legislature.

38 SEC. 124. Section 69615 of the Government Code is amended  
39 to read:



69615. (a) It is the intent of the Legislature in enacting this section to restore an appropriate balance between subordinate judicial officers and judges in the trial courts by providing for the conversion, as needed, of subordinate judicial officer positions to judgeships in courts that assign subordinate judicial officers to act as temporary judges. The Legislature finds that these positions must be converted to judgeships in order to ensure that critical case types, including family, probate, and juvenile law matters, can be heard by judges.

(b) (1) (A) Sixteen subordinate judicial officer positions in eligible superior courts, as determined by the Judicial Council pursuant to uniform criteria for determining the need for converting existing subordinate judicial officer positions to superior court judgeships, shall be converted to judgeships as set forth in paragraph (2).

(B) Upon subsequent authorization by the Legislature, subordinate judicial officer positions in eligible superior courts, as determined by the Judicial Council pursuant to uniform criteria for determining the need for converting existing subordinate judicial officer positions to superior court judgeships, shall be converted to judgeships as set forth in paragraphs (2) and (3), except that no more than 16 subordinate judicial officer positions may be converted in any fiscal year.

(2) The positions for conversion shall be allocated each fiscal year pursuant to uniform allocation standards to be developed by the Judicial Council for factually determining the relative judicial need for conversion of a subordinate judicial officer position that becomes vacant to a superior court judgeship position.

(3) Beginning in the 2008–09 fiscal year, a subordinate judicial officer position shall be converted to a judgeship when all of the following conditions are met:

(A) A vacancy occurs in a subordinate judicial officer position in an eligible superior court as determined by the uniform allocation standards described in paragraph (2).

(B) The Judicial Council files notice of the vacancies and allocations with the ~~Chair~~ *Chairperson* of the Senate Committee on Rules, the Speaker of the Assembly, and the ~~respective chairs~~ *chairpersons* of the Senate and Assembly Committees on Judiciary.

(C) The proposed action is ratified by the Legislature, either in the annual Budget Act or ~~other~~ *another* legislative measure.

1     (4) ~~The provisions of Section 12011.5 of the Government Code~~  
2 shall apply to ~~any~~ *an* appointment to a superior court judgeship  
3 converted from a subordinate judicial officer position.

4     (c) For purposes of this section, “subordinate judicial officer”  
5 means an officer appointed under the authority of Section 22 of  
6 Article VI of the California Constitution. This section shall not  
7 apply to a subordinate judicial officer *position* established by  
8 Section 4251 of the Family Code.

9     (d) It is the intent of the Legislature that no subordinate judicial  
10 officer shall involuntarily lose his or her position solely due to  
11 operation of this section. This section does not change the  
12 employment relationship between subordinate judicial officers and  
13 the trial courts established by law.

14     (e) This section does not limit the authority of the Governor to  
15 appoint a person to fill a vacancy pursuant to subdivision (c) of  
16 Section 16 of Article VI of the California Constitution.

17     (f) This section does not entitle a court to an increase in funding.

18     (g) The operation of this section shall neither increase nor  
19 decrease the number of judicial and subordinate judicial officer  
20 positions and court support positions for which a county is  
21 responsible by law.

22     SEC. 125. Section 70375 of the Government Code is amended  
23 to read:

24     70375. (a) This article shall take effect on January 1, 2003,  
25 and the fund, penalty, and fee assessment established by this article  
26 shall become operative on January 1, 2003, except as otherwise  
27 provided in this article.

28     (b) In each county, the five-dollar (\$5) penalty amount  
29 authorized by subdivision (a) of Section 70372 shall be reduced  
30 by the following:

31     (1) The amount collected for deposit into the local courthouse  
32 construction fund established pursuant to Section 76100. If a county  
33 board of supervisors elects to distribute part of the county penalty  
34 authorized by Section 76000—~~into~~ *to* the local courthouse  
35 construction fund, the amount of the contribution for each seven  
36 dollars (\$7) is the difference between seven dollars (\$7) and the  
37 amount shown for the county penalty in subdivision (e) of Section  
38 76000.

39     (2) The amount collected for transmission to the state for  
40 inclusion in the Transitional State Court Facilities Construction

1 Fund established pursuant to Section 70401 to the extent it is  
2 funded by ~~money~~ *moneys* from the local courthouse construction  
3 fund.

4 (c) The authority for all of the following shall expire  
5 proportionally on ~~the June 30th~~ 30 following the date of transfer  
6 of responsibility for facilities from the county to the Judicial  
7 Council, except so long as ~~money is~~ *moneys are* needed to pay for  
8 construction provided for in those sections and undertaken prior  
9 to the transfer of responsibility for facilities from the county to the  
10 Judicial Council:

11 (1) An additional penalty for a local courthouse construction  
12 fund established pursuant to Section 76100.

13 (2) A filing fee surcharge in the County of Riverside established  
14 pursuant to Section 70622.

15 (3) A filing fee surcharge in the County of San Bernardino  
16 established pursuant to Section 70624.

17 (4) A filing fee surcharge in the City and County of San  
18 Francisco established pursuant to Section 70625.

19 (d) For purposes of subdivision (c), ~~the term~~ “proportionally”  
20 means ~~that~~ *the* proportion of the fee or surcharge that shall expire  
21 upon the transfer of responsibility for a facility that is the same  
22 proportion as the square footage that facility bears to the total  
23 square footage of court facilities in that county.

24 SEC. 126. Section 70391 of the Government Code is amended  
25 to read:

26 70391. The Judicial Council, as the policymaking body for the  
27 judicial branch, shall have the following responsibilities and  
28 authorities with regard to court facilities, in addition to any other  
29 responsibilities or authorities established by law:

30 (a) Exercise full responsibility, jurisdiction, control, and  
31 authority as an owner would have over trial court facilities ~~whose~~  
32 *the title of which* is held by the state, including, but not limited to,  
33 the acquisition and development of facilities.

34 (b) Exercise the full range of policymaking authority over trial  
35 court facilities, including, but not limited to, planning, construction,  
36 acquisition, and operation, to the extent not expressly otherwise  
37 limited by law.

38 (c) Dispose of surplus court facilities following the transfer of  
39 responsibility under Article 3 (commencing with Section 70321),  
40 subject to all of the following:

(1) If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011, and as follows, except that, notwithstanding any other provision of law, the proportion of the net proceeds that represents the proportion of other state funds used on the property other than for operation and maintenance shall be returned to the fund from which it came and the remainder of the proceeds shall be deposited in the State Court Facilities Construction Fund.

(2) The Judicial Council shall consult with the county concerning the disposition of the facility. Notwithstanding any other law, including Section 11011, when requested by the transferring county, a surplus facility shall be offered to that county at fair market value prior to being offered to ~~any other~~ *another* state agency or ~~other~~ local government agency.

(3) The Judicial Council shall consider whether the potential new or planned use of the facility:

(A) Is compatible with the use of other adjacent public buildings.

(B) Unreasonably departs from the historic or local character of the surrounding property or local community.

(C) Has a negative impact on the local community.

(D) Unreasonably interferes with other governmental agencies that use or are located in or adjacent to the building containing the court facility.

(E) Is of sufficient benefit to outweigh the public good in maintaining it as a court facility or building.

(4) All funds received for disposal of surplus court facilities shall be deposited by the Judicial Council in the State Court Facilities Construction Fund.

(5) If the facility was acquired, rehabilitated, or constructed, in whole or in part, with ~~money~~ *moneys* in the State Court Facilities Construction Fund that ~~was~~ *were* deposited in that fund from the state fund, any funds received for disposal of that facility shall be apportioned to the state fund and the State Court Facilities Construction Fund in the same proportion that the original cost of the building was paid from the state fund and other sources of the State Court Facilities Construction Fund.

(6) Submission of a plan to the Legislature for the disposition of court facilities transferred to the state; prior to, or as part of, ~~any~~

1 a budget submission to fund a new courthouse that will replace  
2 the existing court facilities transferred to the state.

3 (d) Conduct audits of all of the following:

4 (1) The collection of fees by the local courts.

5 (2) The ~~money~~ *moneys* in local courthouse construction funds  
6 established pursuant to Section 76100.

7 (e) Establish policies, procedures, and guidelines for ensuring  
8 that the courts have adequate and sufficient facilities, including,  
9 but not limited to, facilities planning, acquisition, construction,  
10 design, operation, and maintenance.

11 (f) Establish and consult with local project advisory groups on  
12 the construction of new trial court facilities, including the trial  
13 court, the county, state agencies, bar groups, and members of the  
14 community.

15 (g) Manage court facilities in consultation with the trial courts.

16 (h) Allocate appropriated funds for court facilities maintenance  
17 and construction, subject to the other provisions of this chapter.

18 (i) Manage shared-use facilities to the extent required by the  
19 agreement under Section 70343.

20 (j) Prepare funding requests for court facility construction,  
21 repair, and maintenance.

22 (k) Implement the design, bid, award, and construction of all  
23 court construction projects, except as delegated to others.

24 (l) Provide for capital outlay projects that may be built with  
25 funds appropriated or otherwise available for these purposes as  
26 follows:

27 (1) Approve five-year and master plans for each district.

28 (2) Establish priorities for construction.

29 (3) Recommend to the Governor and the Legislature the projects  
30 to be funded by the State Court Facilities Construction Fund.

31 (4) Submit the cost of projects proposed to be funded to the  
32 Department of Finance for inclusion in the Governor's Budget.

33 (m) In carrying out its responsibilities and authority under this  
34 section, the Judicial Council shall consult with the local court for:

35 (1) Selecting and contracting with facility consultants.

36 (2) Preparing and reviewing architectural programs and designs  
37 for court facilities.

38 (3) Preparing strategic master and five-year capital facilities  
39 plans.

40 (4) Major maintenance of ~~any~~ a facility.

1 SEC. 127. Section 76000 of the Government Code is amended  
2 to read:

3 76000. (a) (1) Except as otherwise provided ~~elsewhere~~ in this  
4 section, in each county there shall be levied an additional penalty  
5 in the amount of seven dollars (\$7) for every ten dollars (\$10), or  
6 part of ten dollars (\$10), upon every fine, penalty, or forfeiture  
7 imposed and collected by the courts for all criminal offenses,  
8 including all offenses involving a violation of the Vehicle Code  
9 or ~~any~~ a local ordinance adopted pursuant to the Vehicle Code.

10 (2) ~~This~~ The additional penalty shall be collected together with  
11 and in the same manner as the amounts established by Section  
12 1464 of the Penal Code. ~~These~~ The moneys shall be taken from  
13 fines and forfeitures deposited with the county treasurer prior to  
14 any division pursuant to Section 1463 of the Penal Code. The  
15 county treasurer shall deposit those amounts specified by the board  
16 of supervisors by resolution in one or more of the funds established  
17 pursuant to this chapter. However, deposits to these funds shall  
18 continue through whatever period of time is necessary to repay  
19 any borrowings made by the county on or before January 1, 1991,  
20 to pay for construction provided for in this chapter.

21 (3) This additional penalty does not apply to the following:

22 (A) ~~Any~~ A restitution fine.

23 (B) ~~Any~~ A penalty authorized by Section 1464 of the Penal Code  
24 or this chapter.

25 (C) ~~Any~~ A parking offense subject to Article 3 (commencing  
26 with Section 40200) of Chapter 1 of Division 17 of the Vehicle  
27 Code.

28 (D) The state surcharge authorized by Section 1465.7 of the  
29 Penal Code.

30 (b) In each authorized county, provided that the board of  
31 supervisors has adopted a resolution stating that the implementation  
32 of this subdivision is necessary to the county for the purposes  
33 authorized, with respect to each authorized fund established  
34 pursuant to Section 76100 or 76101, for every parking offense  
35 where a parking penalty, fine, or forfeiture is imposed, an added  
36 penalty of two dollars and fifty cents (\$2.50) shall be included in  
37 the total penalty, fine, or forfeiture. Except as provided in  
38 subdivision (c), for each parking case collected in the courts of the  
39 county, the county treasurer shall place in each authorized fund  
40 two dollars and fifty cents (\$2.50). ~~These~~ The moneys shall be

1 taken from fines and forfeitures deposited with the county treasurer  
2 prior to any division pursuant to Section 1462.3 or 1463.009 of  
3 the Penal Code. The judges of the county shall increase the bail  
4 schedule amounts as appropriate to reflect the added penalty  
5 provided for by this section. In ~~those~~ cities, districts, or other  
6 issuing agencies ~~which~~ *that* elect to accept parking penalties, and  
7 otherwise process parking violations pursuant to Article 3  
8 (commencing with Section 40200) of Chapter 1 of Division 17 of  
9 the Vehicle Code, ~~that~~ *the* city, district, or issuing agency shall  
10 observe the increased bail amounts as established by the court  
11 reflecting the added penalty provided for by this section. Each  
12 agency ~~which~~ *that* elects to process parking violations shall pay  
13 to the county treasurer two dollars and fifty cents (\$2.50) for each  
14 fund for each parking penalty collected on each violation ~~which~~  
15 *that* is not filed in court. Those payments to the county treasurer  
16 shall be made monthly, and the county treasurer shall deposit all  
17 those sums in the authorized fund. ~~No~~ *An* issuing agency shall *not*  
18 be required to contribute revenues to ~~any~~ *a* fund in excess of those  
19 revenues generated from the surcharges established in the  
20 resolution adopted pursuant to this chapter, except as otherwise  
21 agreed upon by the local governmental entities involved.

22 (c) The county treasurer shall deposit one dollar (\$1) of every  
23 two dollars and fifty cents (\$2.50) collected pursuant to subdivision  
24 (b) into the general fund of the county.

25 (d) The authority to impose the two-dollar-and-fifty-cent (\$2.50)  
26 penalty authorized by subdivision (b) shall be reduced to one dollar  
27 ~~(\$1.00)~~ *(\$1)* as of the date of transfer of responsibility for facilities  
28 from the county to the Judicial Council pursuant to Article 3  
29 (commencing with Section 70321) of Chapter 5.1, except as ~~money~~  
30 *is moneys* are needed to pay for construction provided for in  
31 Section 76100 and undertaken prior to the transfer of responsibility  
32 for facilities from the county to the Judicial Council.

33 (e) The seven-dollar (\$7) additional penalty authorized by  
34 subdivision (a) shall be reduced in each county by the additional  
35 penalty amount assessed by the county for the local courthouse  
36 construction fund established by Section 76100 as of January 1,  
37 1998, when the ~~money~~ *moneys* in that fund ~~is~~ *are* transferred to  
38 the state under Section 70402. The amount each county shall charge  
39 as an additional penalty under this section shall be as follows:

1	Alameda	\$5.00	Marin	\$5.00	San Luis Obispo	\$6.00
2	Alpine	\$5.00	Mariposa	\$2.00	San Mateo	\$4.75
3	Amador	\$5.00	Mendocino	\$7.00	Santa Barbara	\$3.50
4	Butte	\$6.00	Merced	\$5.00	Santa Clara	\$5.50
5	Calaveras	\$3.00	Modoc	\$4.00	Santa Cruz	\$7.00
6	Colusa	\$6.00	Mono	\$5.00	Shasta	\$3.50
7	Contra Costa	\$5.00	Monterey	\$5.00	Sierra	\$7.00
8	Del Norte	\$5.00	Napa	\$3.00	Siskiyou	\$5.00
9	El Dorado	\$5.00	Nevada	\$5.00	Solano	\$5.00
10	Fresno	\$7.00	Orange	\$3.50	Sonoma	\$5.00
11	Glenn	\$4.06	Placer	\$4.75	Stanislaus	\$5.00
12	Humboldt	\$5.00	Plumas	\$5.00	Sutter	\$3.00
13	Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00
14	Inyo	\$4.00	Sacramento	\$5.00	Trinity	\$4.26
15	Kern	\$7.00	San Benito	\$5.00	Tulare	\$5.00
16	Kings	\$7.00	San Bernardino	\$5.00	Tuolumne	\$5.00
17	Lake	\$7.00	San Diego	\$5.00	Ventura	\$5.00
18	Lassen	\$2.00	San Francisco	\$6.99	Yolo	\$7.00
19	Los Angeles	\$5.00	San Joaquin	\$3.75	Yuba	\$3.00
20	Madera	\$4.50				

21

22 SEC. 128. Section 76000.5 of the Government Code is amended  
 23 to read:

24 76000.5. (a) (1) Except as otherwise provided ~~elsewhere~~ in  
 25 this section, for purposes of supporting emergency medical services  
 26 pursuant to Chapter 2.5 (commencing with Section 1797.98a) of  
 27 Division 2.5 of the Health and Safety Code, in addition to the  
 28 penalties set forth in Section 76000, the county board of supervisors  
 29 may elect to levy an additional penalty in the amount of two dollars  
 30 (\$2) for every ten dollars (\$10), or part of ten dollars (\$10), upon  
 31 every fine, penalty, or forfeiture imposed and collected by the  
 32 courts for all criminal offenses, including violations of Division  
 33 9 (commencing with Section 23000) of the Business and  
 34 Professions Code relating to the control of alcoholic beverages,  
 35 and all offenses involving a violation of the Vehicle Code or ~~any~~  
 36 a local ordinance adopted pursuant to the Vehicle Code. This  
 37 penalty shall be collected together with and in the same manner  
 38 as the amounts established by Section 1464 of the Penal Code.

39 (2) This additional penalty does not apply to the following:

40 (A) ~~Any~~ A restitution fine.



1 (B) ~~Any~~A penalty authorized by Section 1464 of the Penal Code  
2 or this chapter.

3 (C) ~~Parking offenses~~A *parking offense* subject to Article 3  
4 (commencing with Section 40200) of Chapter 1 of Division 17 of  
5 the Vehicle Code.

6 (D) The state surcharge authorized by Section 1465.7 of the  
7 Penal Code.

8 (b) Funds shall be collected pursuant to subdivision (a) only if  
9 the county board of supervisors provides that the increased  
10 penalties do not offset or reduce the funding of other programs  
11 from other sources, but that these additional revenues result in  
12 increased funding to those programs.

13 (c) ~~Money~~*Moneys* collected pursuant to subdivision (a) shall  
14 be taken from fines and forfeitures deposited with the county  
15 treasurer prior to any division pursuant to Section 1463 of the  
16 Penal Code.

17 (d) Funds collected pursuant to this section shall be deposited  
18 into the Maddy Emergency Medical Services (EMS) Fund  
19 established pursuant to Section 1797.98a of the Health and Safety  
20 Code.

21 (e) This section shall remain in effect only until January 1, 2009,  
22 and as of that date is repealed, unless a later enacted statute, that  
23 is chaptered before January 1, 2009, deletes or extends that date.

24 SEC. 129. Section 76104.1 of the Government Code is amended  
25 to read:

26 76104.1. (a) (1) Except as otherwise provided in this section,  
27 and notwithstanding any other provision of law, for purposes of  
28 supporting emergency medical services pursuant to Chapter 2.5  
29 (commencing with Section 1797.98a) of Division 2.5 of the Health  
30 and Safety Code, in Santa Barbara County, a penalty in the amount  
31 of five dollars ~~(\$5.00)~~ (\$5) for every ten dollars ~~(\$10.00)~~ (\$10),  
32 or part of ten dollars (\$10), shall be imposed on every fine, penalty,  
33 or forfeiture collected for all criminal offenses, including all  
34 offenses involving a violation of the Vehicle Code or ~~any~~ a local  
35 ordinance adopted pursuant to the Vehicle Code. This penalty  
36 assessment shall be collected together with and in the same manner  
37 as the amount established by Section 1464 of the Penal Code.

38 (2) The penalty imposed by this section does not apply to the  
39 following:

40 (A) ~~Any~~A restitution fine.

1 (B) ~~Any~~A penalty authorized by Section 1464 of the Penal Code  
2 or this chapter.

3 (C) ~~Any~~A parking offense subject to Article 3 (commencing  
4 with Section 40200) of Chapter 1 of Division 17 of the Vehicle  
5 Code.

6 (D) The state surcharge authorized by Section 1465.7 of the  
7 Penal Code.

8 (b) Notwithstanding any other provision of law, for the purposes  
9 of supporting emergency medical services pursuant to Chapter 2.5  
10 (commencing with Section 1797.98a) of Division 2.5 of the Health  
11 and Safety Code, in Santa Barbara County, for every parking  
12 offense, as defined in subdivision (i) of Section 1463 of the Penal  
13 Code, where a parking penalty, fine, or forfeiture is imposed, an  
14 added penalty of two dollars and fifty cents (\$2.50) shall be  
15 included in the total penalty, fine, or forfeiture, together with and  
16 in the same manner as the amount established pursuant to  
17 subdivision (b) of Section 76000.

18 (c) The moneys collected pursuant to this section shall be held  
19 by the county treasurer in the same manner, and shall be payable  
20 for the same purposes, described in subdivision (e) of Section  
21 76104.

22 (d) (1) Notwithstanding any provision of law to the contrary,  
23 in the County of Santa Barbara, the distribution set forth in  
24 subparagraph (B) of paragraph (5) of subdivision (b) of Section  
25 1797.98a *of the Health and Safety Code* shall, instead, be 42  
26 percent of the fund to hospitals providing disproportionate trauma  
27 and emergency medical services to uninsured patients who do not  
28 make any payment for services.

29 (2) Notwithstanding any provision of law to the contrary, in the  
30 County of Santa Barbara, the ~~17-percent~~ 17-percent distribution  
31 set forth in subparagraph (C) of paragraph (5) of subdivision (b)  
32 of Section 1797.98a *of the Health and Safety Code* shall not apply.

33 (e) This section shall be implemented only if the Santa Barbara  
34 County Board of Supervisors adopts a resolution stating that  
35 implementation of this section is necessary to the county for  
36 purposes of providing payment for emergency medical services.

37 (f) This section shall remain in effect only until January 1, 2009,  
38 and as of that date is repealed.

39 SEC. 130. Section 76104.6 of the Government Code is amended  
40 to read:

76104.6. (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA Fingerprint, Unsolved Crime and Innocence Protection Act (*Proposition 69*), as approved by the voters at the November 2, 2004, statewide general election, there shall be levied an additional penalty of one dollar for every ten dollars (\$10), or part of ten dollars (\$10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or ~~any~~ a local ordinance adopted pursuant to the Vehicle Code.

(2) The penalty imposed by this section shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. ~~These~~ The moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA Identification Fund into which shall be deposited the ~~collected~~ moneys collected pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

(3) ~~This~~ The additional penalty does not apply to the following:

(A) ~~Any~~ A restitution fine.

(B) ~~Any~~ A penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) ~~Any~~ A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the ~~state~~ Controller

1 for credit to the state's DNA Identification Fund, which is hereby  
2 established in the State Treasury, as follows:

3 (A) ~~in~~In the first two calendar years following the effective  
4 date of this section, 70 percent of the amounts collected, including  
5 interest earned thereon;

6 (B) ~~in~~In the third calendar year following the effective date of  
7 this section, 50 percent of the amounts collected, including interest  
8 earned thereon;

9 (C) ~~in~~In the fourth calendar year following the effective date  
10 of this section and in each calendar year thereafter, 25 percent of  
11 the amounts collected, including interest earned thereon.

12 (3) Funds remaining in the county's DNA Identification Fund  
13 shall be used only to reimburse local sheriff or other law  
14 enforcement agencies to collect DNA specimens, samples, and  
15 print impressions pursuant to this chapter; for expenditures and  
16 administrative costs made or incurred to comply with the  
17 requirements of paragraph (5) of subdivision (b) of Section 298  
18 *of the Penal Code*, including the procurement of equipment and  
19 software integral to confirming that a person qualifies for entry  
20 into the Department of Justice DNA *and Forensic Identification*  
21 Database and Data Bank Program; and to local sheriff, police,  
22 district attorney, and regional state crime laboratories for  
23 expenditures and administrative costs made or incurred in  
24 connection with the processing, analysis, tracking, and storage of  
25 DNA crime scene samples from cases in which DNA evidence  
26 would be useful in identifying or prosecuting suspects, including  
27 the procurement of equipment and software for the processing,  
28 analysis, tracking, and storage of DNA crime scene samples from  
29 unsolved cases.

30 (4) The state's DNA Identification Fund shall be administered  
31 by the Department of Justice. Funds in the state's DNA  
32 Identification Fund, upon appropriation by the Legislature, shall  
33 be used by the Attorney General only to support DNA testing in  
34 the state and to offset the impacts of increased testing and shall be  
35 allocated as follows:

36 (A) Of the amount transferred pursuant to subparagraph (A) of  
37 paragraph (2) of subdivision (b), 90 percent to the Department of  
38 Justice DNA Laboratory, first, to comply with the requirements  
39 of Section 298.3 of the Penal Code and, second, for expenditures  
40 and administrative costs made or incurred in connection with the

processing, analysis, tracking, and storage of DNA specimens and samples, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and ~~Databank~~ *Data Bank Act of 1998*, as amended (*Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code*, and 10 percent to the Department of Justice Information Bureau Criminal History Unit for expenditures and administrative costs that have been approved by the Chief of the Department of Justice Bureau of Forensic Services made or incurred to update equipment and software to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and ~~Databank~~ *Data Bank Act of 1998*, as amended.

(C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and ~~Databank~~ *Data Bank Act of 1998*, as amended.

(c) On or before April 1 in the year following adoption of this section, and annually thereafter, the board of supervisors of each county shall submit a report to the Legislature and the Department of Justice. The report shall include the total amount of fines collected and allocated pursuant to this section, and the amounts

1 expended by the county for each program authorized pursuant to  
2 paragraph (3) of subdivision (b) ~~of this section~~. The Department  
3 of Justice shall make the reports publicly available on the  
4 department's *Internet* Web site.

5 (d) All requirements imposed on the Department of Justice  
6 pursuant to the DNA Fingerprint, Unsolved Crime and Innocence  
7 Protection Act are contingent upon the availability of funding and  
8 are limited by revenue, on a fiscal year basis, received by the  
9 Department of Justice pursuant to this section and any additional  
10 appropriation approved by the Legislature for purposes related to  
11 implementing this ~~measure~~ *act*.

12 (e) Upon approval of the DNA Fingerprint, Unsolved Crime  
13 and Innocence Protection Act, the Legislature shall ~~loan~~ *lend* the  
14 Department of Justice General Fund in the amount of ~~\$7,000,000~~  
15 *seven million dollars (\$7,000,000)* for purposes of implementing  
16 ~~that the act~~. ~~This~~ *The* loan shall be repaid with interest calculated  
17 at the rate earned by the Pooled Money Investment Account at the  
18 time the loan is made. Principal and interest on the loan shall be  
19 repaid in full no later than four years from the date the loan was  
20 made and shall be repaid from revenue generated pursuant to this  
21 section.

22 SEC. 131. Section 77200 of the Government Code is amended  
23 to read:

24 77200. On and after July 1, 1997, the state shall assume sole  
25 responsibility for the funding of court operations, as defined in  
26 Section 77003 and Rule ~~840~~ *10.810* of the California Rules of  
27 Court as it read on ~~July January 1, 1996~~ *2007*. In meeting this  
28 responsibility, the state shall do all of the following:

29 (a) Deposit in the ~~State~~ Trial Court Trust Fund, for subsequent  
30 allocation to or for the trial courts, all county funds remitted to the  
31 state pursuant to Section 77201 until June 30, 1998, pursuant to  
32 Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive,  
33 and pursuant to Section 77201.3, thereafter.

34 (b) Be responsible for the cost of court operations incurred by  
35 the trial courts in the 1997–98 fiscal year and subsequent fiscal  
36 years.

37 (c) Allocate funds to the individual trial courts pursuant to an  
38 allocation schedule adopted by the Judicial Council, but in no case  
39 shall the amount allocated to the trial court in a county be less than  
40 the amount remitted to the state by the county in which that court

is located pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201 until June 30, 1998, pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive, and pursuant to paragraphs (1) and (2) of subdivision (a) of Section 77201.3, thereafter.

(d) The Judicial Council shall submit its allocation schedule to the Controller at least ~~5~~ five days before the due date of any allocation.

SEC. 132. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule ~~810~~ 10.810 of the California Rules of Court as it read on ~~July~~ January 1, ~~1996~~ 2007.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter until the 2006–07 fiscal year, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2). For the purpose of determining the counties' payments commencing in the 2006–07 fiscal year, and each fiscal year thereafter, the amounts listed in subdivision (a) of Section 77201.3 shall be used in lieu of the amounts listed in this subdivision.

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below, which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda.....	\$ 22,509,905
Alpine.....	-
Amador.....	-
Butte.....	-
Calaveras.....	-
Colusa.....	-
Contra Costa.....	11,974,535
Del Norte.....	-
El Dorado.....	-
Fresno.....	11,222,780
Glenn.....	-
Humboldt.....	-

	Jurisdiction	Amount
1	Imperial.....	-
2	Inyo.....	-
3	Kern.....	9,234,511
4	Kings.....	-
5	Lake.....	-
6	Lassen.....	-
7	Los Angeles.....	175,330,647
8	Madera.....	-
9	Marin.....	-
10	Mariposa.....	-
11	Mendocino.....	-
12	Merced.....	-
13	Modoc.....	-
14	Mono.....	-
15	Monterey.....	4,520,911
16	Napa.....	-
17	Nevada.....	-
18	Orange.....	38,846,003
19	Placer.....	-
20	Plumas.....	-
21	Riverside.....	17,857,241
22	Sacramento.....	20,733,264
23	San Benito.....	-
24	San Bernardino.....	20,227,102
25	San Diego.....	43,495,932
26	San Francisco.....	19,295,303
27	San Joaquin.....	6,543,068
28	San Luis Obispo.....	-
29	San Mateo.....	12,181,079
30	Santa Barbara.....	6,764,792
31	Santa Clara.....	28,689,450
32	Santa Cruz.....	-
33	Shasta.....	-
34	Sierra.....	-
35	Siskiyou.....	-
36	Solano.....	6,242,661
37	Sonoma.....	6,162,466
38	Stanislaus.....	3,506,297
39	Sutter.....	-
40		



Jurisdiction	Amount
Tehama.....	-
Trinity.....	-
Tulare.....	-
Tuolumne.....	-
Ventura.....	9,734,190
Yolo.....	-
Yuba.....	-

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below, which is based on an amount of *fee*, fine, and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda.....	\$ 9,912,156
Alpine.....	58,757
Amador.....	265,707
Butte.....	1,217,052
Calaveras.....	310,331
Colusa.....	397,468
Contra Costa.....	4,486,486
Del Norte.....	124,085
El Dorado.....	1,028,349
Fresno.....	3,695,633
Glenn.....	360,974
Humboldt.....	1,025,583
Imperial.....	1,144,661
Inyo.....	614,920
Kern.....	5,530,972
Kings.....	982,208
Lake.....	375,570
Lassen.....	430,163
Los Angeles.....	71,002,129
Madera.....	1,042,797
Marin.....	2,111,712
Mariposa.....	135,457

	Jurisdiction	Amount
1		
2	Mendocino.....	717,075
3	Merced.....	1,733,156
4	Modoc.....	104,729
5	Mono.....	415,136
6	Monterey.....	3,330,125
7	Napa.....	719,168
8	Nevada.....	1,220,686
9	Orange.....	19,572,810
10	Placer.....	1,243,754
11	Plumas.....	193,772
12	Riverside.....	7,681,744
13	Sacramento.....	5,937,204
14	San Benito.....	302,324
15	San Bernardino.....	8,163,193
16	San Diego.....	16,166,735
17	San Francisco.....	4,046,107
18	San Joaquin.....	3,562,835
19	San Luis Obispo.....	2,036,515
20	San Mateo.....	4,831,497
21	Santa Barbara.....	3,277,610
22	Santa Clara.....	11,597,583
23	Santa Cruz.....	1,902,096
24	Shasta.....	1,044,700
25	Sierra.....	42,533
26	Siskiyou.....	615,581
27	Solano.....	2,708,758
28	Sonoma.....	2,316,999
29	Stanislaus.....	1,855,169
30	Sutter.....	678,681
31	Tehama.....	640,303
32	Trinity.....	137,087
33	Tulare.....	1,840,422
34	Tuolumne.....	361,665
35	Ventura.....	4,575,349
36	Yolo.....	880,798
37	Yuba.....	289,325
38		

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000; or less, *fewer* on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) ~~Any~~ A change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. ~~Nothing in this paragraph~~ *This paragraph is not* intended to limit judicial sentencing discretion.

(6) In the 2005–06 fiscal year, the amount that the County of Santa Clara is required to remit to the state under paragraph (2) shall be reduced as described in this paragraph, rather than as described in subdivision (b) of Section 68085.7. It is the intent of the Legislature that this paragraph have retroactive effect.

(A) For the County of Santa Clara, the remittance under this subdivision for the 2005–06 fiscal year shall be reduced by an amount equal to one-half of the amount calculated by subtracting the budget reduction for the Superior Court of Santa Clara County for that fiscal year attributable to the reduction of the counties' payment obligation from thirty-one million dollars (\$31,000,000) pursuant to subdivision (a) of Section 68085.6 from the net civil assessments received in that county in that fiscal year. "Net civil assessments" as used in this paragraph means the amount of civil assessments collected minus the costs of collecting those civil assessments, under the guidelines of the Controller.

(B) The reduction under this paragraph of the amount that the County of Santa Clara is required to remit to the state for the

1 2005–06 fiscal year shall not exceed two million five hundred  
2 thousand dollars (\$2,500,000). If the reduction reaches two million  
3 five hundred thousand dollars (\$2,500,000), the amount the county  
4 is required to remit to the state under paragraph (2) of subdivision  
5 (a) of Section 77201.3 in each subsequent fiscal year shall be eight  
6 million four hundred sixty-one thousand two hundred and  
7 ninety-three dollars (\$8,461,293).

8 ~~(C) Nothing in this paragraph shall~~ *This paragraph does not*  
9 affect the reduction of the annual remittance for the County of  
10 Santa Clara as provided in Section 68085.2.

11 (7) Notwithstanding the changes to the amounts in paragraph  
12 (2) made by Section 68085.7 or any other section, the amounts in  
13 paragraph (2) shall not be changed for purposes of the calculation  
14 required by subdivision (a) of Section 77205.

15 (c) ~~Nothing in this~~ *This section is not* intended to relieve a  
16 county of the responsibility to provide necessary and suitable court  
17 facilities pursuant to Section ~~68073~~ 70311.

18 (d) ~~Nothing in this~~ *This section is not* intended to relieve a  
19 county of the responsibility for justice-related expenses not  
20 included in Section 77003 which are otherwise required of the  
21 county by law, including, but not limited to, indigent defense  
22 representation and investigation, and payment of juvenile justice  
23 charges.

24 (e) County base year remittance requirements specified in  
25 paragraph (2) of subdivision (b) incorporate specific reductions to  
26 reflect those instances where the Department of Finance has  
27 determined that a county's remittance to both the General Fund  
28 and the Trial Court Trust Fund during the 1994–95 fiscal year  
29 exceeded the aggregate amount of state funding from the General  
30 Fund and the Trial Court Trust Fund. The amount of the reduction  
31 was determined by calculating the difference between the amount  
32 the county remitted to the General Fund and the Trial Court Trust  
33 Fund and the aggregate amount of state support from the General  
34 Fund and the Trial Court Trust Fund allocated to the county's trial  
35 courts. In making its determination of whether a county is entitled  
36 to a reduction pursuant to ~~that~~ paragraph (2) of subdivision (b), the  
37 Department of Finance subtracted from county revenues remitted  
38 to the state, all moneys derived from the fee required by Section  
39 42007.1 of the Vehicle Code and the parking surcharge required  
40 by subdivision (c) of Section 76000 *of this code*.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or ~~any~~ other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars (\$23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

~~(h) This section shall become operative on July 1, 1999.~~

SEC. 133. Section 95001 of the Government Code is amended to read:

95001. (a) The Legislature hereby finds and declares all of the following:

(1) There is a need to provide appropriate early intervention services individually designed for infants and toddlers from birth ~~through~~ to two years of age, *inclusive*, who have disabilities or are at risk of having disabilities, to enhance their development and to minimize the potential for developmental delays.

(2) Early intervention services for infants and toddlers with disabilities or *who are at risk of having disabilities* represent an investment of resources, in that these services reduce the ultimate costs to our society, by minimizing the need for special education and related services in later school years and by minimizing the likelihood of institutionalization. These services also maximize the ability of families to better provide for the special needs of ~~their-child~~ *children*. Early intervention services for infants and toddlers with disabilities maximize the potential *of the individuals* to be effective in the context of daily life and activities, including

1 the potential to live independently, and exercise the full rights of  
2 citizenship. The earlier intervention is started, the greater is the  
3 ultimate cost-effectiveness and the higher is the educational  
4 attainment and quality of life achieved by children with disabilities.

5 (3) The family is the constant in the child's life, while the service  
6 system and personnel within those systems fluctuate. Because the  
7 primary responsibility of an infant's or toddler's well-being rests  
8 with the family, services should support and enhance the family's  
9 capability to meet the special developmental needs of their infant  
10 or toddlers with disabilities.

11 (4) ~~Family to family~~ *Family-to-family* support strengthens  
12 families' ability to fully participate in services planning and their  
13 capacity to care for their ~~infant or toddler~~ *infants or toddlers* with  
14 disabilities.

15 (5) Meeting the complex needs of infants with disabilities and  
16 their families requires active state and local coordinated,  
17 collaborative, and accessible service delivery systems that are  
18 flexible, culturally competent, and responsive to ~~family-identified~~  
19 *family-identified* needs. When health, developmental, educational,  
20 and social programs are coordinated, they are proven to be  
21 ~~cost-effective~~ *cost effective*, not only for systems, but for families  
22 as well.

23 (6) Family-professional collaboration contributes to changing  
24 the ways that early intervention services are provided and to  
25 enhancing their effectiveness.

26 (7) Infants and toddlers with disabilities are a part of their  
27 communities, and as citizens make valuable contributions to society  
28 as a whole.

29 (b) Therefore, it is the intent of the Legislature that:

30 (1) Funding provided under Part C of the federal Individuals  
31 with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.); be  
32 used to improve and enhance early intervention services as defined  
33 in this title by developing innovative ways of providing family  
34 focused, coordinated services, which are built upon existing  
35 systems.

36 (2) The State Department of Developmental Services, the State  
37 Department of Education, the State Department of Health Care  
38 Services, the State Department of Mental Health, the State  
39 Department of Social Services, and the State Department of  
40 Alcohol and Drug Programs coordinate services to infants and

1 toddlers with disabilities and their families. These agencies need  
2 to collaborate with families and communities to provide a  
3 family-centered, comprehensive, multidisciplinary, interagency,  
4 community-based, early intervention system for infants and  
5 toddlers with disabilities.

6 (3) Families be well informed, supported, and respected as  
7 capable and collaborative decisionmakers regarding services for  
8 their child.

9 (4) Professionals be supported to enhance their training and  
10 maintain a high level of expertise in their field, as well as  
11 knowledge of what constitutes most effective early intervention  
12 practices.

13 (5) Families and professionals join in collaborative partnerships  
14 to develop early intervention services—~~which~~ *that* meet the needs  
15 of infants and toddlers with disabilities, and that—~~such~~ *those*  
16 partnerships be the basis for the development of services—~~which~~  
17 *that* meet the needs of the culturally and linguistically diverse  
18 population of California.

19 (6) To the maximum extent possible, infants and toddlers with  
20 disabilities and their families be provided services in the most  
21 natural environment, and include the use of natural supports and  
22 existing community resources.

23 (7) The services delivery system be responsive to the families  
24 and children it serves within the context of cooperation and  
25 coordination among the various agencies.

26 (8) Early intervention program quality be ensured and  
27 maintained through established early intervention program and  
28 personnel standards.

29 (9) The early intervention system be responsive to public input  
30 and participation in the development of implementation policies  
31 and procedures for early intervention services through the forum  
32 of an interagency coordinating council established pursuant to  
33 federal regulations under Part C of the federal Individuals with  
34 Disabilities Education Act.

35 (c) It is not the intent of the Legislature to require the State  
36 Department of Education to implement this title unless adequate  
37 reimbursement, as specified and agreed to by the department, is  
38 provided to the department from federal funds from Part C of the  
39 federal Individuals with Disabilities Education Act.

1 SEC. 134. Section 95003 of the Government Code, as amended  
2 by Section 106 of Chapter 56 of the Statutes of 2007, is amended  
3 to read:

4 95003. (a) The state's participation in Part C of the federal  
5 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431  
6 et seq.) shall be contingent on the receipt of federal funds to cover  
7 the costs of complying with the federal statutes and regulations  
8 that impose new requirements on the state. The State Department  
9 of Developmental Services and the State Department of Education  
10 annually shall report to the Department of Finance during  
11 preparation of the Governor's Budget, and the May ~~revision~~  
12 *Revision*, the budget year costs and federal funds projected to be  
13 available.

14 (b) If the amount of funding provided by the federal government  
15 pursuant to Part C of the federal Individuals with Disabilities  
16 Education Act for the 1993–94 fiscal year, or any fiscal year  
17 thereafter, is not sufficient to fund the full increased costs of  
18 participation in this federal program by the local educational  
19 agencies, as required pursuant to this title, for infants and toddlers  
20 from birth ~~through~~ to two years of age, *inclusive*, identified  
21 pursuant to Section 95014, and that lack of federal funding would  
22 require an increased contribution from the General Fund or a  
23 contribution from a local educational agency in order to fund those  
24 required and supplemental costs, the state shall terminate its  
25 participation in the program. Termination of the program shall  
26 occur on July 1 if local educational agencies have been notified  
27 of the termination prior to March 10 of that calendar year. If this  
28 notification is provided after March 10 of a calendar year, then  
29 termination shall not occur earlier than July 1 of the subsequent  
30 calendar year. The voluntary contribution by a state or local agency  
31 of funding for any of the programs or services required pursuant  
32 to this title shall not constitute grounds for terminating the state's  
33 participation in that federal program. It is the intent of the  
34 Legislature that if the program terminates, the termination shall  
35 be carried out in an orderly manner with notification of parents  
36 and certificated personnel.

37 (c) This title shall remain in effect only until the state terminates  
38 its participation in Part C of the federal Individuals with Disabilities  
39 Education Act ~~(20 U.S.C. Sec. 1431 et seq.)~~ for individuals from  
40 birth ~~through~~ to two years of age, *inclusive*, and notifies the



Secretary of the Senate of the termination, and as of that later date is repealed. As the lead agency, the State Department of Developmental Services ~~shall~~, upon notification by the Department of Finance or the State Department of Education as to the insufficiency of federal funds and the termination of this program, *shall* be responsible for the payment of services pursuant to this title when no other agency or department is required to make these payments.

SEC. 135. Section 95020 of the Government Code is amended to read:

95020. (a) An eligible infant or toddler shall have an individualized family service plan. The individualized family service plan shall be used in place of an individualized education program required pursuant to Sections 4646 and 4646.5 of the Welfare and Institutions Code, the individualized ~~education~~ program *plan* required pursuant to Section 56340 of the Education Code, or any other applicable service plan.

(b) For an infant or toddler who has been evaluated for the first time, a meeting to share the results of the evaluation, to determine eligibility and, for children who are eligible, to develop the initial individualized family service plan shall be conducted within 45 calendar days of receipt of the written referral. Evaluation results and determination of eligibility may be shared in a meeting with the family prior to the individualized family service plan. Written parent consent to evaluate and assess shall be obtained within the 45-day timeline. A regional center, local educational agency, or ~~their designees~~ *the designee of one of those entities* shall initiate and conduct this meeting. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services.

(c) Parents shall be fully informed of their rights, including the right to invite ~~any other~~ *another* person, including a family member or an advocate or peer parent, or any or all of them, to accompany them to any or all individualized family service plan meetings. With parental consent, a referral shall be made to the local family resource center or network.

(d) The individualized family service plan shall be in writing and shall address all of the following:

(1) A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status,

1 cognitive development, communication development, social and  
2 emotional development, and adaptive developments.

3 (2) With the concurrence of the family, a statement of the  
4 family's concerns, priorities, and resources related to meeting the  
5 special developmental needs of the eligible infant or toddler.

6 (3) A statement of the major outcomes expected to be achieved  
7 for the infant or toddler and family where services for the family  
8 are related to meeting the special developmental needs of the  
9 eligible infant or toddler.

10 (4) The criteria, procedures, and timelines used to determine  
11 the degree to which progress toward achieving the outcomes is  
12 being made and whether modifications or revisions are necessary.

13 (5) A statement of the specific early intervention services  
14 necessary to meet the unique needs of the infant or toddler as  
15 identified in paragraph (3), including, but not limited to, the  
16 frequency, intensity, location, duration, and method of delivering  
17 the services, and ways of providing services in natural  
18 environments.

19 (6) A statement of the agency responsible for providing the  
20 identified services.

21 (7) The name of the service coordinator who shall be responsible  
22 for facilitating implementation of the plan and coordinating with  
23 other agencies and persons.

24 (8) The steps to be taken to ensure transition of the infant or  
25 toddler upon reaching three years of age to other appropriate  
26 services. These may include, as appropriate, special education or  
27 other services offered in natural environments.

28 (9) The projected dates for the initiation of services in paragraph  
29 (5) and the anticipated duration of those services.

30 (e) Each service identified on the individualized family service  
31 plan shall be designated as one of three types:

32 (1) An early intervention service, as defined in ~~Part C (20 U.S.C.~~  
33 ~~Sec. 1432(4))~~ *subsection (4) of Section 1432 of Title 20 of the*  
34 *United States Code*, and applicable regulations, that is provided  
35 or purchased through the regional center, local educational agency,  
36 or other participating agency. The State Department of Health  
37 Care Services, State Department of Social Services, State  
38 Department of Mental Health, and State Department of Alcohol  
39 and Drug Programs shall provide services in accordance with state  
40 and federal law and applicable regulations, and up to the level of

funding as appropriated by the Legislature. Early intervention services identified on an individualized family service plan that exceed the funding, statutory, and regulatory requirements of these departments shall be provided or purchased by regional centers or local educational agencies under subdivisions (b) and (c) of Section 95014. The State Department of Health *Care* Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall not be required to provide early intervention services over their existing funding, statutory, and regulatory requirements.

(2) ~~Any other~~ *Another* service, other than those specified in paragraph (1), which the eligible infant or toddler or his or her family may receive from other state programs, subject to the eligibility standards of those programs.

(3) A referral to a nonrequired service that may be provided to an eligible infant or toddler or his or her family. Nonrequired services are those services that are not defined as early intervention services or do not relate to meeting the special developmental needs of an eligible infant or toddler related to the disability, but which may be helpful to the family. The granting or denial of nonrequired services by ~~any~~ *a* public or private agency is not subject to appeal under this title.

(f) An annual review, and other periodic reviews, of the individualized family service plan for an infant or toddler and the infant's or toddler's family shall be conducted to determine the degree of progress that is being made in achieving the outcomes specified in the plan and whether modification or revision of the outcomes or services is necessary. The frequency, participants, purpose, and required processes for annual and periodic reviews shall be consistent with the statutes and regulations under Part C *of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.)* and this title, and shall be specified in regulations adopted pursuant to Section 95028.

SEC. 136. Section 1180.1 of the Health and Safety Code is amended to read:

1180.1. For purposes of this division, the following definitions apply:

(a) "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self

1 or to others. It does not include restraints used for medical  
2 purposes, including, but not limited to, securing an intravenous  
3 needle or immobilizing a person for a surgical procedure, or  
4 postural restraints, or devices used to prevent injury or to improve  
5 a person's mobility and independent functioning rather than to  
6 restrict movement.

7 (b) "Containment" means a brief physical restraint of a person  
8 for the purpose of effectively gaining quick control of a person  
9 who is aggressive or agitated or who is a danger to self or others.

10 (c) "Mechanical restraint" means the use of a mechanical device,  
11 material, or equipment attached or adjacent to the person's body  
12 that he or she cannot easily remove and that restricts the freedom  
13 of movement of all or part of a person's body or restricts normal  
14 access to the person's body, and that is used as a behavioral  
15 restraint.

16 (d) "Physical restraint" means the use of a manual hold to restrict  
17 freedom of movement of all or part of a person's body, or to restrict  
18 normal access to the person's body, and that is used as a behavioral  
19 restraint. "Physical restraint" is ~~any~~ staff-to-person physical contact  
20 in which the person unwillingly participates. "Physical restraint"  
21 does not include briefly holding a person without undue force in  
22 order to calm or comfort, or physical contact intended to gently  
23 assist a person in performing tasks or to guide or assist a person  
24 from one area to another.

25 (e) "Seclusion" means the involuntary confinement of a person  
26 alone in a room or an area from which the person is physically  
27 prevented from leaving. "Seclusion" does not include a "timeout,"  
28 as defined in regulations relating to facilities operated by the State  
29 Department of Developmental Services.

30 (f) "Secretary" means the Secretary of ~~the~~ California Health  
31 and Human Services ~~Agency~~.

32 (g) "Serious injury" means ~~any~~ significant impairment of the  
33 physical condition as determined by qualified medical personnel,  
34 and includes, but is not limited to, burns, lacerations, bone  
35 fractures, substantial hematoma, or injuries to internal organs.

36 SEC. 137. Section 1250.8 of the Health and Safety Code is  
37 amended to read:

38 1250.8. (a) Notwithstanding subdivision (a) of Section ~~437.10~~  
39 ~~127170~~, the department, upon application of a general acute care  
40 hospital ~~which~~ *that* meets all the criteria of subdivision (b), and

1 other applicable requirements of licensure, shall issue a single  
2 consolidated license to a general acute care hospital ~~which~~ *that*  
3 includes more than one physical plant maintained and operated on  
4 separate premises or ~~which~~ *that* has multiple licenses for a single  
5 health facility on the same premises. A single consolidated license  
6 shall not be issued where the separate freestanding physical plant  
7 is a skilled nursing facility or an intermediate care facility, whether  
8 or not the location of the skilled nursing facility or intermediate  
9 care facility is contiguous to the general acute care hospital unless  
10 the hospital is exempt from the requirements of subdivision (b) of  
11 Section 1254, or the facility is part of the physical structure licensed  
12 to provide acute care.

13 (b) The issuance of a single consolidated license shall be based  
14 on the following criteria:

15 (1) There is a single governing body for all ~~of~~ the facilities  
16 maintained and operated by the licensee.

17 (2) There is a single administration for all ~~of~~ the facilities  
18 maintained and operated by the licensee.

19 (3) There is a single medical staff for all ~~of~~ the facilities  
20 maintained and operated by the licensee, with a single set of  
21 bylaws, rules, and regulations, which prescribe a single committee  
22 structure.

23 (4) Except as provided otherwise in this paragraph, the physical  
24 plants maintained and operated by the licensee which are to be  
25 covered by the single consolidated license are located not more  
26 than 15 miles apart. If an applicant provides evidence satisfactory  
27 to the department that it can comply with all requirements of  
28 licensure and provide quality care and adequate administrative and  
29 professional supervision, the director may issue a single  
30 consolidated license to a general acute care hospital that operates  
31 two or more physical plants located more than 15 miles apart under  
32 any of the following circumstances:

33 (A) One or more of the physical plants is located in a rural area,  
34 as defined by regulations of the director.

35 (B) One or more of the physical plants provides only outpatient  
36 services, as defined by the department.

37 (C) If Section 14105.986 of the Welfare and Institutions Code  
38 is implemented and the applicant meets all of the following criteria:

39 (i) The applicant is a nonprofit corporation.

1 (ii) The applicant is a children's hospital listed in Section 10727  
2 of the Welfare and Institutions Code.

3 (iii) The applicant is affiliated with a major university medical  
4 school; and located adjacent thereto.

5 (iv) The applicant operates a regional tertiary care facility.

6 (v) One of the physical plants is located in a county that has a  
7 consolidated and county government structure.

8 (vi) One of the physical plants is located in a county having a  
9 population between ~~1 million~~ 1,000,000 and ~~2 million~~ 2,000,000.

10 (vii) The applicant is located in a city with a population between  
11 50,000 and 100,000.

12 (c) In issuing the single consolidated license, the state  
13 department shall specify the location of each supplemental service  
14 and the location of the number and category of beds provided by  
15 the licensee. The single consolidated license shall be renewed  
16 annually.

17 (d) To the extent required by ~~Part 1.5 Chapter 1~~ (commencing  
18 with Section ~~437~~ 127125) of Part 2 of Division ~~1~~ 107, a general  
19 acute care hospital which has been issued a single consolidated  
20 license:

21 (1) Shall not transfer from one facility to another a special  
22 service described in Section 1255 without first obtaining a  
23 certificate of need.

24 (2) Shall not transfer, in whole or in part, from one facility to  
25 another, a supplemental service, as defined in regulations of the  
26 director pursuant to this chapter, without first obtaining a certificate  
27 of need, unless the licensee, 30 days prior to the relocation, notifies  
28 the Office of Statewide Health Planning and Development, the  
29 applicable health systems agency, and the state department of the  
30 licensee's intent to relocate the supplemental service, and includes  
31 with this notice a cost estimate, certified by a person qualified by  
32 experience or training to render the estimates, which estimates that  
33 the cost of the transfer will not exceed the capital expenditure  
34 threshold established by the Office of Statewide Health Planning  
35 and Development pursuant to Section ~~437.10~~ 127170.

36 (3) Shall not transfer beds from one facility to another facility,  
37 without first obtaining a certificate of need unless, 30 days prior  
38 to the relocation, the licensee notifies the Office of Statewide  
39 Health Planning and Development, the applicable health systems  
40 agency, and the state department of the licensee's intent to relocate

1 health facility beds, and includes with this notice both of the  
2 following:

3 (A) A cost estimate, certified by a person qualified by experience  
4 or training to render the estimates, which estimates that the cost  
5 of the relocation will not exceed the capital expenditure threshold  
6 established by the Office of Statewide Health Planning and  
7 Development pursuant to Section ~~437.10~~ 127170.

8 (B) The identification of the number, classification, and location  
9 of the health facility beds in the transferor facility and the proposed  
10 number, classification, and location of the health facility beds in  
11 the transferee facility.

12 Except as otherwise permitted in ~~Part 1.5 Chapter 1~~  
13 (commencing with Section ~~437~~) 127125) of Part 2 of Division ~~4~~  
14 107, or as authorized in an approved certificate of need pursuant  
15 to that ~~part chapter~~, health facility beds transferred pursuant to  
16 this section shall be used in the transferee facility in the same bed  
17 classification as defined in Section 1250.1, as the beds were  
18 classified in the transferor facility.

19 Health facility beds transferred pursuant to this section shall not  
20 be transferred back to the transferor facility for two years from the  
21 date of the transfer, regardless of cost, without first obtaining a  
22 certificate of need pursuant to ~~Part 1.5 Chapter 1~~ (commencing  
23 with Section ~~437~~) 127125) of Part 2 of Division ~~4~~ 107.

24 (e) ~~All transfers~~ *Transfers* pursuant to subdivision (d) shall  
25 satisfy all applicable requirements of licensure and shall be subject  
26 to the written approval, if required, of the state department. The  
27 state department may adopt regulations ~~which~~ *that* are necessary  
28 to implement the provisions of this section. These regulations may  
29 include a requirement that each facility of a health facility subject  
30 to a single consolidated license have an onsite full-time or part-time  
31 administrator.

32 (f) As used in this section, “facility” means ~~any~~ *a* physical plant  
33 operated or maintained by a health facility subject to a single,  
34 consolidated license issued pursuant to this section.

35 (g) For purposes of selective provider contracts negotiated under  
36 the Medi-Cal program, the treatment of a health facility with a  
37 single consolidated license issued pursuant to this section shall be  
38 subject to negotiation between the health facility and the California  
39 Medical Assistance Commission. A general acute care hospital  
40 ~~which~~ *that* is issued a single consolidated license pursuant to this

1 section may, at its option, be enrolled in the Medi-Cal program as  
2 a single business address or as separate business addresses for one  
3 or more of the facilities subject to the single consolidated license.  
4 Irrespective of whether the general acute care hospital is enrolled  
5 at one or more business addresses, the department may require the  
6 hospital to file separate cost reports for each facility pursuant to  
7 Section 14170 of the Welfare and Institutions Code.

8 (h) For purposes of the Annual Report of Hospitals required by  
9 regulations adopted by the state department pursuant to this part,  
10 the state department and the Office of Statewide Health Planning  
11 and Development may require reporting of bed and service  
12 utilization data separately by each facility of a general acute care  
13 hospital issued a single consolidated license pursuant to this  
14 section.

15 (i) The amendments made to this section during the 1985–86  
16 Regular Session of the Legislature pertaining to the issuance of a  
17 single consolidated license to a general acute care hospital in the  
18 case where the separate physical plant is a skilled nursing facility  
19 or intermediate care facility shall not apply to the following  
20 facilities:

21 (1) ~~Any facility which~~ *A facility that* obtained a certificate of  
22 need after August 1, 1984, and prior to February 14, 1985, as  
23 described in this subdivision. The certificate of need shall be for  
24 the construction of a skilled nursing facility or intermediate care  
25 facility ~~which~~ *that* is the same facility for which the hospital applies  
26 for a single consolidated license, pursuant to subdivision (a).

27 (2) ~~Any~~ *A* facility for which a single consolidated license has  
28 been issued pursuant to subdivision (a), as described in this  
29 subdivision, prior to the effective date of the amendments made  
30 to this section during the 1985–86 Regular Session of the  
31 Legislature.

32 ~~Any~~ *A* facility which has been issued a single consolidated  
33 license pursuant to subdivision (a), as described in this subdivision,  
34 shall be granted renewal licenses based upon the same criteria used  
35 for the initial consolidated license.

36 (j) If the state department issues a single consolidated license  
37 pursuant to this section, the state department may take any action  
38 authorized by this chapter, including, but not limited to, any action  
39 specified in Article 5 (commencing with Section 1294), with



1 respect to ~~any~~ a facility, or ~~any~~ a service provided in ~~any~~ a facility,  
2 ~~which~~ *that* is included in the consolidated license.

3 (k) The eligibility for participation in the Medi-Cal program  
4 (Chapter 7 (commencing with Section 14000); *of Part 3; of Division*  
5 *9; of the* Welfare and Institutions Code) of ~~any~~ a facility that is  
6 included in a consolidated license issued pursuant to this section,  
7 provides outpatient services, and is located more than 15 miles  
8 from the health facility issued the consolidated license shall be  
9 subject to a determination of eligibility by the state department.  
10 This subdivision shall not apply to ~~any~~ a facility that is located in  
11 a rural area and is included in a consolidated license issued  
12 pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of  
13 subdivision (b). Regardless of whether a facility has received or  
14 not received a determination of eligibility pursuant to this  
15 subdivision, this subdivision shall not affect the ability of a licensed  
16 professional, providing services covered by the Medi-Cal program  
17 to a person eligible for Medi-Cal in a facility subject to a  
18 determination of eligibility pursuant to this subdivision, to bill the  
19 Medi-Cal program for those services provided in accordance with  
20 applicable regulations.

21 (l) Notwithstanding any other provision of law, the director may  
22 issue a single consolidated license for a general acute care hospital  
23 to Children's Hospital Oakland and San Ramon Regional Medical  
24 Center.

25 (m) Notwithstanding any other provision of law, the director  
26 may issue a single consolidated license for a general acute care  
27 hospital to Children's Hospital Oakland and the John Muir Medical  
28 Center, Concord ~~campus~~ *Campus*.

29 (n) (1) To the extent permitted by federal law, payments made  
30 to Children's Hospital Oakland pursuant to Section 14166.11 of  
31 the Welfare and Institutions Code shall be adjusted as follows:

32 (A) The number of Medi-Cal payment days and net revenues  
33 calculated for the John Muir Medical Center, Concord ~~campus~~  
34 *Campus* under the consolidated license shall not be used for  
35 eligibility purposes for the private hospital disproportionate share  
36 hospital replacement funds for Children's Hospital Oakland.

37 (B) The number of Medi-Cal payment days calculated for  
38 hospital beds located at John Muir Medical Center, Concord  
39 ~~campus~~ *Campus* that are included in the consolidated license  
40 beginning in the 2007–08 fiscal year shall only be used for

1 purposes of calculating disproportionate share hospital payments  
2 authorized under Section 14166.11 of the Welfare and Institutions  
3 Code at Children's Hospital Oakland to the extent that the inclusion  
4 of those days does not exceed the total Medi-Cal payment days  
5 used to calculate Children's Hospital Oakland payments for the  
6 2006–07 fiscal year disproportionate share replacement.

7 (2) This subdivision shall become inoperative in the event that  
8 the two facilities covered under the consolidated license described  
9 in subdivision (a) are located within a 15-mile radius of each other.

10 SEC. 138. Section 1348.8 of the Health and Safety Code is  
11 amended to read:

12 1348.8. (a) ~~Every~~A health care service plan that provides,  
13 operates, or contracts for, telephone medical advice services to its  
14 enrollees and subscribers shall do all of the following:

15 (1) Ensure that the in-state or out-of-state telephone medical  
16 advice service is registered pursuant to Chapter 15 (commencing  
17 with Section 4999) of Division 2 of the Business and Professions  
18 Code.

19 (2) Ensure that the staff providing telephone medical advice  
20 services for the in-state or out-of-state telephone medical advice  
21 service are licensed as follows:

22 (A) For full service health care service plans, the staff hold a  
23 valid California license as a registered nurse or a valid license in  
24 the state within which they provide telephone medical advice  
25 services as a physician and surgeon or physician assistant, and are  
26 operating in compliance with the laws governing their respective  
27 scopes of practice.

28 (B) (i) For specialized health care service plans providing,  
29 operating, or contracting with a telephone medical advice service  
30 in California, the staff shall be appropriately licensed, registered,  
31 or certified *as a dentist pursuant to Chapter 4 (commencing with*  
32 *Section 1600) of Division 2 of the Business and Professions Code,*  
33 *as a dental hygienist pursuant to Article 7 (commencing with*  
34 *Section 1740) of Chapter 4 of Division 2 of the Business and*  
35 *Professions Code,* as a physician and surgeon pursuant to Chapter  
36 5 (commencing with Section 2000) of Division 2 of the Business  
37 and Professions Code or the Osteopathic Initiative Act, as a  
38 registered nurse pursuant to Chapter 6 (commencing with Section  
39 2700) of Division 2 of the Business and Professions Code, ~~as a~~  
40 ~~dentist pursuant to Chapter 4 (commencing with Section 1600) of~~

~~Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990) 4991) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.~~

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate,

1 advise, or make any decision regarding the condition of an enrollee  
2 or subscriber or determine when an enrollee or subscriber needs  
3 to be seen by a licensed medical professional.

4 (5) Ensure that no staff member uses a title or designation when  
5 speaking to an enrollee or subscriber that may cause a reasonable  
6 person to believe that the staff member is a licensed, certified, or  
7 registered professional described in Section 4999.2 *of the Business*  
8 *and Professions Code* unless the staff member is a licensed,  
9 certified, or registered professional.

10 (6) Ensure that the in-state or out-of-state telephone medical  
11 advice service designates an agent for service of process in  
12 California and files this designation with the director.

13 (7) Requires that the in-state or out-of-state telephone medical  
14 advice service makes and maintains records for a period of five  
15 years after the telephone medical advice services are provided,  
16 including, but not limited to, oral or written transcripts of all  
17 medical advice conversations with the health care service plan's  
18 enrollees or subscribers in California and copies of all complaints.  
19 If the records of telephone medical advice services are kept out of  
20 state, the health care service plan shall, upon the request of the  
21 director, provide the records to the director within 10 days of the  
22 request.

23 (8) Ensure that the telephone medical advice services are  
24 provided consistent with good professional practice.

25 (b) The director shall forward to the Department of Consumer  
26 Affairs, within 30 days of the end of each calendar quarter, data  
27 regarding complaints filed with the department concerning  
28 telephone medical advice services.

29 (c) For the purposes of this section, "telephone medical advice"  
30 means a telephonic communication between a patient and a health  
31 care professional in which the health care professional's primary  
32 function is to provide to the patient a telephonic response to the  
33 patient's questions regarding his or her or a family member's  
34 medical care or treatment. "Telephone medical advice" includes  
35 assessment, evaluation, or advice provided to patients or their  
36 family members.

37 SEC. 139. Section 1357.03 of the Health and Safety Code is  
38 amended to read:

39 1357.03. (a) Upon the effective date of this article, a plan shall  
40 fairly and affirmatively offer, market, and sell all of the plan's

1 health care service plan contracts that are sold to small employers  
2 or to associations that include small employers to all small  
3 employers in each service area in which the plan provides or  
4 arranges for the provision of health care services. A plan  
5 contracting to participate in the voluntary purchasing pool for small  
6 employers provided for under Article 4 (commencing with Section  
7 10730) of Chapter 14 8 of Part 2 of Division 2 of the Insurance  
8 Code shall be deemed in compliance with this requirement for a  
9 contract offered through the voluntary purchasing pool established  
10 under Article 4 (commencing with Section 10730) of Chapter 14  
11 8 of Part 2 of Division 2 of the Insurance Code in those geographic  
12 regions in which plans participate in the pool, if the contract is  
13 offered exclusively through the pool. Each plan shall make  
14 available to each small employer all small employer health care  
15 service plan contracts ~~which~~ that the plan offers and sells to small  
16 employers or to associations that include small employers in this  
17 state. No plan or solicitor shall induce or otherwise encourage a  
18 small employer to separate or otherwise exclude an eligible  
19 employee from a health care service plan contract that is provided  
20 in connection with the employee's employment or membership in  
21 a guaranteed association.

22 (b) Every plan shall file with the director the reasonable  
23 employee participation requirements and employer contribution  
24 requirements that will be applied in offering its plan contracts.  
25 Participation requirements shall be applied uniformly among all  
26 small employer groups, except that a plan may vary application  
27 of minimum employee participation requirements by the size of  
28 the small employer group and whether the employer contributes  
29 100 percent of the eligible employee's premium. Employer  
30 contribution requirements shall not vary by employer size. A health  
31 care service plan shall not establish a participation requirement  
32 that (1) requires a person who meets the definition of a dependent  
33 in subdivision (a) of Section 1357 to enroll as a dependent if he  
34 or she is otherwise eligible for coverage and wishes to enroll as  
35 an eligible employee and (2) allows a plan to reject an otherwise  
36 eligible small employer because of the number of persons that  
37 waive coverage due to coverage through another employer.  
38 Members of an association eligible for health coverage under  
39 subdivision (o) of Section 1357, but not electing any health  
40 coverage through the association, shall not be counted as eligible

1 employees for purposes of determining whether the guaranteed  
2 association meets a plan's reasonable participation standards.

3 (c) The plan ~~may~~ *shall* not reject an application from a small  
4 employer for a health care service plan contract if all of the  
5 following are met:

6 (1) The small employer, as defined by paragraph (1) of  
7 subdivision (l) of Section 1357, offers health benefits to 100  
8 percent of its eligible employees, as defined by paragraph (1) of  
9 subdivision (b) of Section 1357. Employees who waive coverage  
10 on the grounds that they have other group coverage shall not be  
11 counted as eligible employees.

12 (2) The small employer agrees to make the required premium  
13 payments.

14 (3) The small employer agrees to inform the small employers'  
15 employees of the availability of coverage and the provision that  
16 those not electing coverage must wait one year to obtain coverage  
17 through the group if they later decide they would like to have  
18 coverage.

19 (4) The employees and their dependents who are to be covered  
20 by the plan contract work or reside in the service area in which  
21 the plan provides or otherwise arranges for the provision of health  
22 care services.

23 (d) No plan or solicitor shall, directly or indirectly, engage in  
24 the following activities:

25 (1) Encourage or direct small employers to refrain from filing  
26 an application for coverage with a plan because of the health status,  
27 claims experience, industry, occupation of the small employer, or  
28 geographic location provided that it is within the plan's approved  
29 service area.

30 (2) Encourage or direct small employers to seek coverage from  
31 another plan or the voluntary purchasing pool established under  
32 Article 4 (commencing with Section 10730) of Chapter 14 8 of  
33 Part 2 of Division 2 of the Insurance Code because of the health  
34 status, claims experience, industry, occupation of the small  
35 employer, or geographic location provided that it is within the  
36 plan's approved service area.

37 (e) ~~No plan shall~~ *A plan shall not*, directly or indirectly, enter  
38 into any contract, agreement, or arrangement with a solicitor that  
39 provides for or results in the compensation paid to a solicitor for  
40 the sale of a health care service plan contract to be varied because

1 of the health status, claims experience, industry, occupation, or  
2 geographic location of the small employer. This subdivision ~~shall~~  
3 ~~does not apply with respect to~~ a compensation arrangement that  
4 provides compensation to a solicitor on the basis of percentage of  
5 premium, provided that the percentage shall not vary because of  
6 the health status, claims experience, industry, occupation, or  
7 geographic area of the small employer.

8 (f) ~~No~~ A policy or contract that covers two or more employees  
9 ~~may shall not~~ establish rules for eligibility, including continued  
10 eligibility, of ~~any~~ an individual, or dependent of an individual, to  
11 enroll under the terms of the plan based on any of the following  
12 health status-related factors: ~~(1) health~~

13 (1) *Health* status; ~~(2) medical.~~

14 (2) *Medical* condition, including physical and mental illnesses;  
15 ~~(3) claims.~~

16 (3) *Claims* experience; ~~(4) receipt.~~

17 (4) *Receipt* of health care; ~~(5) medical.~~

18 (5) *Medical* history; ~~(6) genetic.~~

19 (6) *Genetic* information; ~~(7) evidence.~~

20 (7) *Evidence* of insurability, including conditions arising out of  
21 acts of domestic violence; ~~or (8) disability.~~

22 (8) *Disability.*

23 (g) ~~Each~~ A plan shall comply with the requirements of Section  
24 1374.3.

25 SEC. 140. Section 1367.07 of the Health and Safety Code is  
26 amended to read:

27 1367.07. Within one year after a health care service plan's  
28 assessment pursuant to subdivision (b) of Section 1367.04, the  
29 health care service plan shall report to the department, in a format  
30 specified by the department, regarding internal policies and  
31 procedures related to cultural appropriateness in each of the  
32 following contexts:

33 (a) Collection of data regarding the enrollee population pursuant  
34 to the health care service plan's assessment conducted in  
35 accordance with subdivision (b) of Section 1367.04.

36 (b) Education of health care service plan staff who have routine  
37 contact with enrollees regarding the diverse needs of the enrollee  
38 population.

39 (c) Recruitment and retention efforts that encourage workforce  
40 diversity.

1 (d) Evaluation of the health care service plan's programs and  
2 services with respect to the plan's enrollee population, using  
3 processes such as an analysis of complaints and satisfaction survey  
4 results.

5 (e) The periodic provision of information regarding the ethnic  
6 diversity of the plan's enrollee population and any related strategies  
7 to plan providers. Plans may use existing means of communication.

8 (f) The periodic provision of educational information to plan  
9 enrollees on the plan's services and programs. Plans may use  
10 existing means of ~~communications~~ *communication*.

11 SEC. 141. Section 1417.2 of the Health and Safety Code is  
12 amended to read:

13 1417.2. (a) Notwithstanding Section 1428, moneys collected  
14 as a result of state and federal civil penalties imposed under this  
15 chapter or federal law shall be deposited into accounts that are  
16 hereby established in the Special Deposit Fund created pursuant  
17 to Section 16370 of the Government Code. These accounts are  
18 titled the State Health Facilities Citation Penalties Account, into  
19 which moneys derived from civil penalties for violations of state  
20 law shall be deposited, and the Federal Health Facilities Citation  
21 Penalties Account, into which moneys derived from civil penalties  
22 for violations of federal law shall be deposited. Moneys from these  
23 accounts shall be used, notwithstanding Section 16370 of the  
24 Government Code, upon appropriation by the Legislature, in  
25 accordance with state and federal law for the protection of health  
26 or property of residents of long-term health care facilities,  
27 including, but not limited to, the following:

28 (1) Relocation expenses incurred by the department, in the event  
29 of a facility closure.

30 (2) Maintenance of facility operation pending correction of  
31 deficiencies or closure, such as temporary management or  
32 receivership, in the event that the revenues of the facility are  
33 insufficient.

34 (3) Reimbursing residents for personal funds lost. In the event  
35 that the loss is a result of the actions of a long-term health care  
36 facility or its employees, the revenues of the facility shall first be  
37 used.

38 (4) The costs associated with informational meetings required  
39 under Section 1327.2.



(b) Notwithstanding subdivision (a), the balance in the State Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars (\$10,000,000).

(c) Moneys from the Federal Health Facilities Citation Penalties Account, in the amount not to exceed one hundred thirty thousand dollars (\$130,000), may also be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the improvement of quality of care and quality of life for long-term health care facilities residents pursuant to Section 1417.3.

(d) The department shall post on its *Internet* Web site, and shall update on a quarterly basis, all of the following regarding the funds in the State Health Facilities ~~Citations~~ Citation Penalties Account and the Federal Health Facilities ~~Citations~~ Citation Penalties Account:

(1) The specific sources of funds deposited into the account.

(2) The amount of funds in the account that have not been allocated.

(3) A detailed description of how funds in the account have been allocated and expended, including, but not limited to, the names of ~~any~~ persons or entities that received the funds, the amount of ~~any~~ salaries paid to temporary managers, and a description of ~~any~~ equipment purchased with the funds. However, the description shall not include the ~~name of any~~ names of residents.

SEC. 142. Section 1538.5 of the Health and Safety Code is amended to read:

1538.5. (a) (1) Not less than 30 days prior to the anniversary of the effective date of ~~any~~ a residential community care facility license, except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, clients' rights advocates, or placement agencies, as designated in each resident's placement agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(2) The department may transmit copies of the inspection reports referred to in paragraph (1) concerning group homes, as defined by regulations of the department, to the county in which a group home facility is located, if requested by that county.

(3) A group home facility shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision

(a) in the following cases:

(1) In the case of ~~any~~ a substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days; from the date the facility receives the licensing report from the state department to comply.

(2) In any case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

(c) ~~Each~~ A residential facility shall retain a copy of the notices transmitted pursuant to subdivision ~~(e)~~ (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(d) ~~If any~~ a residential facility to which this section applies fails to comply with this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with ~~Article 3 (commencing with Section 1530) this~~ *article* and the related rules and regulations.

(e) Not less than 30 days prior to the anniversary of the effective date of the license of any group home facility, as defined by regulations of the department, at the request of the county in which the group home facility is located, a group home facility shall transmit to the county a copy of all incident reports prepared by the group home facility and transmitted to a placement agency, *as described in subdivision (f) of Section 1536.1*, in a county other than the county in which the group home facility is located, ~~as described in subdivision (f) of Section 1536.1~~, that involved a response by local law enforcement or emergency services

1 personnel. The county shall designate an official for the receipt of  
2 the incident reports and shall ~~so~~ notify the group home *of the*  
3 *designation*. Prior to transmitting copies of incident reports to the  
4 county, the group home facility shall redact the name of any child  
5 referenced in the incident reports, and ~~any~~ other identifying  
6 information regarding any child referenced in the reports, and the  
7 identity and location of the placement agency of any child  
8 referenced in the reports. The county may review the incident  
9 reports to ensure that the group home facilities have taken  
10 appropriate action to ensure the health and safety of the residents  
11 of the facility.

12 (f) The department shall notify the residential community care  
13 facility of its obligation when it is required to comply with this  
14 section.

15 SEC. 143. Section 1568.09 of the Health and Safety Code is  
16 amended to read:

17 1568.09. It is the intent of the Legislature in enacting this  
18 section to require the electronic fingerprint images of those  
19 individuals whose contact with residents of residential care  
20 facilities for persons with a chronic, life-threatening illness may  
21 pose a risk to the residents' health and safety.

22 It is the intent of the Legislature, in enacting this section, to  
23 require the electronic fingerprint images of those individuals whose  
24 contact with community care clients may pose a risk to the clients'  
25 health and safety. An individual shall be required to obtain either  
26 a criminal record clearance or a criminal record exemption from  
27 the State Department of Social Services before his or her initial  
28 presence in a residential care facility for persons with chronic,  
29 life-threatening illnesses.

30 (a) (1) Before issuing a license to ~~any~~ a person or persons to  
31 operate or manage a residential care facility, the department shall  
32 secure from an appropriate law enforcement agency a criminal  
33 record to determine whether the applicant or any other person  
34 specified in subdivision (b) has ever been convicted of a crime  
35 other than a minor traffic violation or arrested for any crime  
36 specified in subdivision (c) of Section 290 of the Penal Code, for  
37 violating Section 245 or 273.5, subdivision (b) of Section 273a or,  
38 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal  
39 Code, or for any crime for which the department cannot grant an

1 exemption if the person was convicted and the person has not been  
2 exonerated.

3 (2) The criminal history information shall include the full  
4 criminal record if any, of those persons, and subsequent arrest  
5 information pursuant to Section 11105.2 of the Penal Code.

6 (3) The following shall apply to the criminal record information:

7 (A) If the State Department of Social Services finds that the  
8 applicant or ~~any other~~ *another* person specified in subdivision (b)  
9 has been convicted of a crime, other than a minor traffic violation,  
10 the application shall be denied, unless the director grants an  
11 exemption pursuant to subdivision (f).

12 (B) If the State Department of Social Services finds that the  
13 applicant, or ~~any other~~ *another* person specified in subdivision (b)  
14 is awaiting trial for a crime other than a minor traffic violation,  
15 the State Department of Social Services may cease processing the  
16 application until the conclusion of the trial.

17 (C) If no criminal record information has been recorded, the  
18 Department of Justice shall provide the applicant and the State  
19 Department of Social Services with a statement of that fact.

20 (D) If the State Department of Social Services finds after  
21 licensure that the licensee, or any other person specified in  
22 paragraph (2) of subdivision (b), has been convicted of a crime  
23 other than a minor traffic violation, the license may be revoked,  
24 unless the director grants an exemption pursuant to subdivision  
25 (f).

26 (E) An applicant and any other person specified in subdivision  
27 (b) shall submit fingerprint images and related information to the  
28 Department of Justice and the Federal Bureau of Investigation,  
29 through the Department of Justice, for a state and federal level  
30 criminal offender record information search, in addition to the  
31 search required by this subdivision. If an applicant meets all other  
32 conditions for licensure, except receipt of the Federal Bureau of  
33 Investigation's criminal history information for the applicant and  
34 persons listed in subdivision (b), the department may issue a license  
35 if the applicant and each person described by subdivision (b) has  
36 signed and submitted a statement that he or she has never been  
37 convicted of a crime in the United States, other than a traffic  
38 infraction as defined in paragraph (1) of subdivision (a) of Section  
39 42001 of the Vehicle Code. If, after licensure, the department  
40 determines that the licensee or person specified in subdivision (b)

1 has a criminal record, the license may be revoked pursuant to  
2 subdivision (a) of Section 1568.082. The department may also  
3 suspend the license pending an administrative hearing pursuant to  
4 subdivision (b) of Section 1568.082.

5 (b) In addition to the applicant, ~~the provisions of this section~~  
6 shall be applicable to criminal convictions of the following persons:

7 (1) Adults responsible for administration or direct supervision  
8 of staff of the facility.

9 (2) ~~Any~~ A person, other than a resident, residing in the facility.

10 (3) ~~Any~~ A person who provides resident assistance in dressing,  
11 grooming, bathing, or personal hygiene. ~~Any~~ A nurse assistant or  
12 home health aide meeting the requirements of Section 1338.5 or  
13 1736.6, respectively, who is not employed, retained, or contracted  
14 by the licensee, and who has been certified or recertified on or  
15 after July 1, 1998, shall be deemed to meet the criminal record  
16 clearance requirements of this section. A certified nurse assistant  
17 and certified home health aide who will be providing client  
18 assistance and who falls under this exemption shall provide one  
19 copy of his or her current certification, prior to providing care, to  
20 the residential care facility for persons with chronic, life-threatening  
21 illness. The facility shall maintain the copy of the certification on  
22 file as long as care is being provided by the certified nurse assistant  
23 or certified home health aide at the facility. ~~Nothing in this~~  
24 ~~paragraph restricts~~ *This paragraph does not restrict* the right of  
25 the department to exclude a certified nurse assistant or certified  
26 home health aide from a licensed residential care facility for  
27 persons with chronic, life-threatening illness pursuant to Section  
28 1568.092.

29 (4) (A) ~~Any~~ A staff person, volunteer, or employee who has  
30 contact with the residents.

31 (B) A volunteer shall be exempt from the requirements of this  
32 subdivision if he or she is a relative, significant other, or close  
33 friend of a client receiving care in the facility and the volunteer  
34 does not provide direct care and supervision of residents. A  
35 volunteer who provides direct care and supervision shall be exempt  
36 if the volunteer is a resident's spouse, significant other, close  
37 friend, or family member and provides direct care and supervision  
38 to that resident only at the request of the resident. The department  
39 may define in regulations persons similar to those described in this

1 subparagraph who may be exempt from the requirements of this  
2 subdivision.

3 (5) If the applicant is a firm, partnership, association, or  
4 corporation, the chief executive officer or other person serving in  
5 that capacity.

6 (6) Additional officers of the governing body of the applicant,  
7 or other persons with a financial interest in the applicant, as  
8 determined necessary by the department by regulation. The criteria  
9 used in the development of these regulations shall be based on the  
10 person's capability to exercise substantial influence over the  
11 operation of the facility.

12 (c) (1) (A) Subsequent to initial licensure, ~~any~~ *a* person  
13 specified in subdivision (b) and not exempted from fingerprinting  
14 shall, as a condition to employment, residence, or presence in a  
15 residential care facility, be fingerprinted and sign a declaration  
16 under penalty of perjury regarding any prior criminal convictions.  
17 The licensee shall submit fingerprint images and related  
18 information to the Department of Justice and the Federal Bureau  
19 of Investigation, through the Department of Justice, for a state and  
20 federal level criminal offender record information search, or to  
21 comply with paragraph (1) of subdivision (g), prior to the person's  
22 employment, residence, or initial presence in the residential care  
23 facility.

24 (B) These fingerprint images and related information shall be  
25 electronically submitted to the Department of Justice in a manner  
26 approved by the State Department of Social Services and the  
27 Department of Justice, for the purpose of obtaining a permanent  
28 set of fingerprints. A licensee's failure to submit fingerprint images  
29 and related information to the Department of Justice, or to comply  
30 with paragraph (1) of subdivision (g), as required in this section,  
31 shall result in the citation of a deficiency and an immediate  
32 assessment of civil penalties in the amount of one hundred dollars  
33 (\$100) per violation per day for a maximum of five days, unless  
34 the violation is a second or subsequent violation within a 12-month  
35 period in which case the civil penalties shall be in the amount of  
36 one hundred dollars (\$100) per violation for a maximum of 30  
37 days, and shall be grounds for disciplining the licensee pursuant  
38 to Section 1568.082. The State Department of Social Services may  
39 assess civil penalties for continued violations as allowed in Section  
40 1568.0822. The fingerprint images and related information shall

1 then be submitted to the Department of Justice for processing. The  
2 licensee shall maintain and make available for inspection  
3 documentation of the individual's clearance or exemption.

4 (2) A violation of the regulations adopted pursuant to Section  
5 1522.04 shall result in the citation of a deficiency and an immediate  
6 assessment of civil penalties in the amount of one hundred dollars  
7 (\$100) per violation per day for a maximum of five days, unless  
8 the violation is a second or subsequent violation within a 12-month  
9 period in which case the civil penalties shall be in the amount of  
10 one hundred dollars (\$100) per violation for a maximum of 30  
11 days, and shall be grounds for disciplining the licensee pursuant  
12 to Section 1568.082. The department may assess civil penalties  
13 for continued violations as permitted by Section 1568.0822.

14 (3) Within 14 calendar days of the receipt of the fingerprint  
15 images, the Department of Justice shall notify the State Department  
16 of Social Services of the criminal record information, as provided  
17 for in this subdivision. If no criminal record information has been  
18 recorded, the Department of Justice shall provide the licensee and  
19 the State Department of Social Services with a statement of that  
20 fact within 14 calendar days of receipt of the fingerprint images.  
21 If new fingerprint images are required for processing, the  
22 Department of Justice shall, within 14 calendar days from the date  
23 of receipt of the fingerprint images, notify the licensee that the  
24 fingerprint images were illegible. The Department of Justice shall  
25 notify the department, as required by Section 1522.04, and shall  
26 notify the licensee by mail within 14 days of electronic  
27 transmission of the fingerprint images to the Department of Justice,  
28 if the person has no criminal history record.

29 (4) Except for persons specified in paragraph (2) of subdivision  
30 (b), the licensee shall endeavor to ascertain the previous  
31 employment history of persons required to be fingerprinted under  
32 this subdivision. If it is determined by the State Department of  
33 Social Services, on the basis of the fingerprint images submitted  
34 to the Department of Justice, that the person has been convicted  
35 of a sex offense against a minor, an offense specified in Section  
36 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,  
37 the department shall notify the licensee to act immediately to  
38 terminate the person's employment, remove the person from the  
39 residential care facility, or bar the person from entering the  
40 residential care facility. The department may subsequently grant

1 an exemption pursuant to subdivision (f). If the conviction was for  
2 another crime, except a minor traffic violation, the licensee shall,  
3 upon notification by the department, act immediately to either~~(1)~~  
4 (A) terminate the person's employment, remove the person from  
5 the residential care facility, or bar the person from entering the  
6 residential care facility; or~~(2)~~ (B) seek an exemption pursuant to  
7 subdivision (f). The department shall determine if the person shall  
8 be allowed to remain in the facility until a decision on the  
9 exemption is rendered. A licensee's failure to comply with the  
10 department's prohibition of employment, contact with clients, or  
11 presence in the facility as required by this paragraph shall result  
12 in a citation of deficiency and an immediate assessment of civil  
13 penalties by the department against the licensee, in the amount of  
14 one hundred dollars (\$100) per violation per day for a maximum  
15 of five days, unless the violation is a second or subsequent violation  
16 within a 12-month period in which case the civil penalties shall  
17 be in the amount of one hundred dollars (\$100) per violation for  
18 a maximum of 30 days, and shall be grounds for disciplining the  
19 licensee pursuant to Section 1568.082.

20 (5) The department may issue an exemption on its own motion  
21 pursuant to subdivision (f) if the person's criminal history indicates  
22 that the person is of good character based on the age, seriousness,  
23 and frequency of the conviction or convictions. The department,  
24 in consultation with interested parties, shall develop regulations  
25 to establish the criteria to grant an exemption pursuant to this  
26 paragraph.

27 (6) Concurrently with notifying the licensee pursuant to  
28 paragraph (4), the department shall notify the affected individual  
29 of his or her right to seek an exemption pursuant to subdivision  
30 (f). The individual may seek an exemption only if the licensee  
31 terminates the person's employment or removes the person from  
32 the facility after receiving notice from the department pursuant to  
33 paragraph (4).

34 (d) (1) For purposes of this section or any other provision of  
35 this chapter, a conviction means a plea or verdict of guilty or a  
36 conviction following a plea of nolo contendere. ~~Any~~ An action that  
37 the department is permitted to take following the establishment of  
38 a conviction may be taken when the time for appeal has elapsed,  
39 when the judgment of conviction has been affirmed on appeal, or  
40 when an order granting probation is made suspending the



1 imposition of the sentence, notwithstanding a subsequent order  
2 pursuant to Sections 1203.4 and 1203.4a of the Penal Code  
3 permitting that person to withdraw his or her plea of guilty and to  
4 enter a plea of not guilty, setting aside the verdict of guilty, or  
5 dismissing the accusation, information, or indictment. For purposes  
6 of this chapter, the record of a conviction, or a copy thereof  
7 certified by the clerk of the court or by a judge of the court in  
8 which the conviction occurred, shall be conclusive evidence of the  
9 conviction. For purposes of this section or any other provision of  
10 this chapter, the arrest disposition report certified by the  
11 Department of Justice, or documents admissible in a criminal action  
12 pursuant to Section 969b of the Penal Code, shall be prima facie  
13 evidence of the conviction, notwithstanding any other provision  
14 of law prohibiting the admission of these documents in a civil or  
15 administrative action.

16 (2) For purposes of this section or any other provision of this  
17 chapter, the department shall consider criminal convictions from  
18 another state or federal court as if the criminal offense was  
19 committed in this state.

20 (e) The State Department of Social Services ~~may~~ *shall* not use  
21 a record of arrest to deny, revoke, or terminate any application,  
22 license, employment, or residence unless the department  
23 investigates the incident and secures evidence, whether or not  
24 related to the incident of arrest, that is admissible in an  
25 administrative hearing to establish conduct by the person that may  
26 pose a risk to the health and safety of any person who is or may  
27 become a client. The State Department of Social Services is  
28 authorized to obtain ~~any~~ arrest or conviction records or reports  
29 from ~~any~~ a law enforcement agency as necessary to the  
30 performance of its duties to inspect, license, and investigate  
31 community care facilities and individuals associated with a  
32 community care facility.

33 (f) (1) After review of the record, the director may grant an  
34 exemption from disqualification for a license as specified in  
35 paragraphs (1) and (4) of subdivision (a), or for employment,  
36 residence, or presence in a residential care facility as specified in  
37 paragraphs (4), (5), and (6) of subdivision (c) if the director has  
38 substantial and convincing evidence to support a reasonable belief  
39 that the applicant and the person convicted of the crime, if other  
40 than the applicant, are of such good character as to justify issuance

1 of the license or special permit or granting an exemption for  
2 purposes of subdivision (c). However, an exemption ~~may~~ *shall* not  
3 be granted pursuant to this subdivision if the conviction was for  
4 any of the following offenses:

5 (A) An offense specified in Section 220, 243.4, or 264.1,  
6 subdivision (a) of Section 273a or, prior to January 1, 1994,  
7 paragraph (1) of Section 273a, Section 273d, 288, or 289,  
8 subdivision (c) of Section 290, or Section 368 of the Penal Code,  
9 or was a conviction of another crime against an individual specified  
10 in subdivision (c) of Section 667.5 of the Penal Code.

11 (B) A felony offense specified in Section 729 of the Business  
12 and Professions Code or Section 206 or 215, subdivision (a) of  
13 Section 347, subdivision (b) of Section 417, or subdivision (a) of  
14 Section 451 of the Penal Code.

15 (2) The department ~~may~~ *shall* not prohibit a person from being  
16 employed or having contact with clients in a facility on the basis  
17 of a denied criminal record exemption request or arrest information  
18 unless the department complies with ~~the requirements of~~ Section  
19 1568.092.

20 (g) (1) For purposes of compliance with this section, the  
21 department may permit an individual to transfer a current criminal  
22 record clearance, as defined in subdivision (a), from one facility  
23 to another, as long as the criminal record clearance has been  
24 processed through a state licensing district office, and is being  
25 transferred to another facility licensed by a state licensing district  
26 office. The request shall be in writing to the department, and shall  
27 include a copy of the person's driver's license or valid  
28 identification card issued by the Department of Motor Vehicles,  
29 or a valid photo identification issued by another state or the United  
30 States government if the person is not a California resident. Upon  
31 request of the licensee, who shall enclose a self-addressed stamped  
32 envelope for this purpose, the department shall verify whether the  
33 individual has a clearance that can be transferred.

34 (2) The State Department of Social Services shall hold criminal  
35 record clearances in its active files for a minimum of two years  
36 after an employee is no longer employed at a licensed facility in  
37 order for the criminal record clearance to be transferred.

38 (h) If a licensee or facility is required by law to deny  
39 employment or to terminate employment of any employee based  
40 on written notification from the state department that the employee

1 has a prior criminal conviction or is determined unsuitable for  
2 employment under Section 1568.092, the licensee or facility shall  
3 not incur civil liability or unemployment insurance liability as a  
4 result of that denial or termination.

5 (i) (1) The Department of Justice shall charge a fee sufficient  
6 to cover its cost in providing services to comply with the 14-day  
7 requirement contained in subdivision (c) for provision to the  
8 department of criminal record information.

9 (2) Paragraph (1) shall cease to be implemented when the  
10 department adopts emergency regulations pursuant to Section  
11 1522.04, and shall become inoperative when permanent regulations  
12 are adopted under that section.

13 (j) Notwithstanding any other provision of law, the department  
14 may provide an individual with a copy of his or her state or federal  
15 level criminal offender record information search response as  
16 provided to that department by the Department of Justice if the  
17 department has denied a criminal background clearance based on  
18 this information and the individual makes a written request to the  
19 department for a copy specifying an address to which it is to be  
20 sent. The state or federal level criminal offender record information  
21 search response shall not be modified or altered from its form or  
22 content as provided by the Department of Justice and shall be  
23 provided to the address specified by the individual in his or her  
24 written request. The department shall retain a copy of the  
25 individual's written request and the response and date provided.

26 SEC. 144. Section 1569.145 of the Health and Safety Code is  
27 amended to read:

28 1569.145. This chapter shall not apply to any of the following:

29 (a) ~~Any~~ A health facility, as defined by Section 1250.

30 (b) ~~Any~~ A clinic, as defined by Section ~~1202~~ 1200.

31 (c) ~~Any~~ A facility conducted by and for the adherents of ~~any~~ a  
32 well-recognized church or religious denomination for the purpose  
33 of providing facilities for the care or treatment of the sick who  
34 depend upon prayer or spiritual means for healing in the practice  
35 of the religion of ~~such~~ that church or denomination.

36 (d) ~~Any~~ A house, institution, hotel, congregate housing project  
37 for the elderly, or other similar place that is limited to providing  
38 one or more of the following: housing, meals, transportation,  
39 housekeeping, or recreational and social activities; or that have  
40 residents independently accessing supportive services; provided,

1 however, that no resident thereof requires ~~any~~ *an* element of care  
2 and supervision or protective supervision as determined by the  
3 director. This subdivision shall not include a home or residence  
4 that is described in subdivision (f).

5 (e) Recovery houses or other similar facilities providing group  
6 living arrangements for persons recovering from alcoholism or  
7 drug addiction where the facility provides no care or supervision.

8 (f) (1) ~~Any~~ *An* arrangement for the care and supervision of a  
9 person or persons by a family member.

10 (2) ~~Any~~ *An* arrangement for the care and supervision of a person  
11 or persons from only one family by a close friend, whose friendship  
12 preexisted the contact between the provider and the recipient, and  
13 both of the following are met:

14 (A) The care and supervision is provided in a home or residence  
15 chosen by the recipient.

16 (B) The arrangement is not of a business nature and occurs only  
17 as long as the needs of the recipient for care and supervision are  
18 adequately met.

19 (g) ~~Any housing~~ *Housing* for elderly or disabled persons, or  
20 both, that is approved and operated pursuant to Section 202 of  
21 Public Law 86-372 (12 ~~U.S.C.A.~~ *U.S.C.* Sec. 1701q), or Section  
22 811 of Public Law 101-625 (42 ~~U.S.C.A.~~ *U.S.C.* Sec. 8013), or  
23 whose mortgage is insured pursuant to Section 236 of Public Law  
24 90-448 (12 ~~U.S.C.A.~~ *U.S.C.* Sec. 1715z), or that receives mortgage  
25 assistance pursuant to Section 221d (3) of Public Law 87-70 (12  
26 ~~U.S.C.A.~~ *U.S.C.* Sec. ~~1715l~~ *1715l*), where supportive services  
27 are made available to residents at their option, as long as the project  
28 owner or operator does not contract for or provide the supportive  
29 services. The project owner or operator may coordinate, or help  
30 residents gain access to, the supportive services, either directly,  
31 or through a service coordinator.

32 (h) ~~Any~~ *A* similar facility determined by the director.

33 (i) For purposes of this section, “family member” means ~~any~~ *a*  
34 spouse, by marriage or otherwise, child or stepchild, by natural  
35 birth or by adoption, parent, brother, sister, ~~half-brother~~ *half*  
36 *brother*, ~~half-sister~~ *half sister*, parent-in-law, brother-in-law,  
37 sister-in-law, nephew, niece, aunt, uncle, first cousin, or ~~any~~ *a*  
38 person denoted by the prefix “grand” or “great,” or the spouse of  
39 ~~any~~ *one* of these persons.

1 (j) A person shall not be exempted from this chapter's licensure  
2 requirements if he or she has been appointed as conservator of the  
3 person, estate of the person, or both, if the person is receiving care  
4 and supervision from the conservator as regulated by this chapter,  
5 unless the conservator is otherwise exempted under other  
6 provisions of this section.

7 SEC. 145. Section 1728.8 of the Health and Safety Code is  
8 amended to read:

9 1728.8. (a) It is the intent of the Legislature to ensure that the  
10 department licenses and certifies home health agencies in a  
11 reasonable and timely manner to ensure *that* Californians have  
12 access to critical home- and community-based services. Home  
13 health agencies have significant startup costs and regulatory  
14 requirements, which make home health agencies vulnerable to  
15 delays in licensing and certification surveys. Home health agencies  
16 help the state protect against the unnecessary institutionalization  
17 of individuals and are integral in ensuring the state's compliance  
18 with the United States Supreme Court decision in *Olmstead v.*  
19 *L.C.* ~~(527 (1999) 527 U.S. 581-(1999))~~, which requires public  
20 agencies to provide services in the most integrated setting  
21 appropriate to the needs of qualified individuals with disabilities.

22 (b) No later than 90 calendar days after the department receives  
23 an initial and complete parent, branch, or change of ownership  
24 home health agency application, the department shall make every  
25 effort to complete the application paperwork and conduct a  
26 licensure survey, if necessary, to inspect the agency and evaluate  
27 the agency's compliance with state requirements. The department  
28 shall forward its recommendation, if necessary, and all other  
29 information, to the federal Centers for Medicare and Medicaid  
30 Services within the same 90 calendar days.

31 (c) (1) For those applicants seeking to receive reimbursement  
32 under the Medicare or Medi-Cal programs, the department shall  
33 make every effort to complete the initial application paperwork  
34 and conduct an unannounced certification survey, if necessary, no  
35 later than 90 calendar days after the department conducts the  
36 licensure survey required by subdivision (a), or no later than 90  
37 days after the department's receipt of a letter from the home health  
38 agency notifying the department of its readiness for the certification  
39 survey from a parent or branch agency.

(2) No later than 30 calendar days after the certification survey, the department shall forward the results of its licensure and certification surveys and all other information necessary for certification to the federal Centers for Medicare and Medicaid Services.

(d) This section shall apply to all licensing and certification entities, including ~~any~~ a county that contracts with the state to provide licensing and certification services on behalf of the state.

(e) If the department is unable to meet the 90-day timelines for licensing or certification required pursuant to this section, the department shall notify the applicant in writing of the delay and the anticipated date of the survey.

(f) This section shall become operative on July 1, 2008.

SEC. 146. Section 11752.1 of the Health and Safety Code is amended to read:

11752.1. (a) "County board of supervisors" includes county boards of supervisors in the case of counties acting jointly.

(b) "Agency" means the California Health and Human Services Agency.

(c) "Secretary" means the Secretary of ~~the~~ California Health and Human Services ~~Agency~~.

(d) "County plan for alcohol and other drug services" or "county plan" means the county plan, including a budget, adopted by the board of supervisors pursuant to Chapter 4 (commencing with Section 11795) of *Part 2*.

(e) "Advisory board" means the county advisory board on alcohol and other drug problems established at the sole discretion of the county board of supervisors pursuant to Section 11805. If a county does not establish an advisory board, then any provision of this chapter relative to the activities, duties, and functions of the advisory board shall be inapplicable to that county.

(f) "Alcohol and drug program administrator" means the county program administrator designated pursuant to Section 11800.

(g) "State alcohol and other drug program" includes all state alcohol and other drug projects administered by the department and all county alcohol and other drug programs funded under this division.

(h) "Health systems agency" means the health planning agency established pursuant to ~~federal legislation cited as~~ Public Law 93-641.

1 (i) “Alcohol and other drug problems” means problems of  
2 individuals, families, and the community that are related to the  
3 abuse of alcohol and other drugs.

4 (j) “Alcohol abuser” means anyone who has a problem related  
5 to the consumption of alcoholic beverages whether or not it is of  
6 a periodic or continuing nature. This definition includes, but is not  
7 limited to, persons referred to as “alcoholics” and “drinking  
8 drivers.” These problems may be evidenced by substantial  
9 impairment to the person’s physical, mental, or social well-being,  
10 which impairment adversely affects his or her abilities to function  
11 in the community.

12 (k) “Drug abuser” means anyone who has a problem related to  
13 the consumption of illicit, illegal, legal, or prescription drugs or  
14 over-the-counter medications in a manner other than prescribed,  
15 whether or not it is of a periodic or continuing nature. This  
16 definition includes, but is not limited to, persons referred to as  
17 “drug addicts.” ~~The—drug-consumption—related~~  
18 *drug-consumption-related* problems of these persons may be  
19 evidenced by substantial impairment to the person’s physical,  
20 mental, or social well-being, which impairment adversely affects  
21 his or her abilities to function in the community.

22 (l) “Alcohol and other drug service” means ~~any~~ *a* service that  
23 is designed to encourage recovery from the abuse of alcohol and  
24 other drugs and to alleviate or preclude problems in the individual,  
25 his or her family, and the community.

26 (m) “Alcohol and other drug abuse program” means a collection  
27 of alcohol and other drug services that are coordinated to achieve  
28 the specified objectives of this part.

29 (n) “Driving-under-the-influence program,” “DUI Program,”  
30 or “Licensed Program” means an alcohol and other drug service  
31 that has been issued a valid license by the department to provide  
32 services pursuant to Chapter 9 (commencing with Section 11836)  
33 of Part 2.

34 (o) “Clients-participants” means recipients of alcohol and other  
35 drug prevention, treatment, and recovery program services.

36 (p) “Substance Abuse and Mental Health Services  
37 Administration” means that agency of the United States Department  
38 of Health and Human Services.

39 SEC. 147. Section 25210.9 of the Health and Safety Code is  
40 amended to read:

25210.9. (a) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not manufacture general purpose lights for sale in this state that contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(b) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not sell or offer for sale in this state a general purpose light under any of the following circumstances:

(1) The general purpose light being sold or offered for sale was manufactured on and after January 1, 2010, and contains levels of hazardous substances that would result in the prohibition of those ~~that~~ general purpose ~~lights~~ light being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(2) The manufacturer of the general purpose light sold or being offered for sale fails to provide the documentation to the department required by subdivision (h).

(3) The manufacturer of the general purpose light being sold or offered for sale does not provide the certification required in subdivision (i).

(c) For the purposes of this section, “RoHS Directive” means Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, on the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities (13.2.2003 Official Journal of the European Union).

(d) The department shall determine the products covered by the RoHS Directive by reference to authoritative guidance published by the United Kingdom implementing the RoHS Directive in that country.

(e) (1) Except as provided in paragraph (2), subdivisions (a), (b), (h), and (i) do not apply to high output and very high output linear fluorescent lamps greater than 32 millimeters in diameter and preheat linear fluorescent lamps.

(2) On or after January 1, 2014, the department shall determine, in consultation with companies that manufacture lamps specified in paragraph (1) in the United States, if those lamps should be subject to the requirements of subdivisions (a), (b), (h), and (i),



1 taking into consideration changes in lamp design or manufacturing  
2 technology that will allow for the removal or reduction of mercury.

3 (f) On and after January 1, 2012, for high intensity discharge  
4 lamps and compact fluorescent lamps greater than nine inches in  
5 length, subdivisions (a), (b), (h), and (i) shall be applicable.

6 (g) On and after January 1, 2014, for state-regulated general  
7 service incandescent lamps and enhanced spectrum lamps as  
8 defined in subdivision (k) of Section 1602 of Title 20 of the  
9 California Code of Regulations, subdivisions (a), (b), (h), and (i)  
10 shall be applicable.

11 (h) A manufacturer of general purpose lights sold or being  
12 offered for sale in California shall prepare and, at the request of  
13 the department, submit within 28 days of the date of the request,  
14 technical documentation or other information showing that the  
15 manufacturer's general purpose lights sold or offered for sale in  
16 this state comply with the requirements of the RoHS Directive.

17 (i) A manufacturer of general purpose lights sold or being  
18 offered for sale in California shall provide, upon request, a  
19 certification to a person who sells or offers for sale that  
20 manufacturer's general purpose lights. The certification shall attest  
21 that the general purpose lights do not contain levels of hazardous  
22 substances that would result in the prohibition of those general  
23 purpose lights being sold or offered for sale in California.  
24 Alternatively, the manufacturer may display the certification  
25 required by this subdivision prominently on the shipping container  
26 or on the packaging of general purpose lights.

27 (j) The department may adopt regulations to implement and  
28 administer this article.

29 SEC. 148. Section 25270.2 of the Health and Safety Code is  
30 amended to read:

31 25270.2. For purposes of this chapter, the following definitions  
32 apply:

33 (a) "Aboveground storage tank" or "storage tank" means a tank  
34 that has the capacity to store 55 gallons or more of petroleum and  
35 that is substantially or totally above the surface of the ground.  
36 "Aboveground storage tank" does not include any of the following:

37 (1) A pressure vessel or boiler that is subject to Part 6  
38 (commencing with Section 7620) of Division 5 of the Labor Code.

39 (2) A tank containing hazardous waste, as defined in subdivision  
40 (g) of Section 25316, if the Department of Toxic Substances

1 Control has issued the person owning or operating the tank a  
2 hazardous waste facilities permit for the storage tank.

3 (3) An aboveground oil production tank that is subject to Section  
4 3106 of the Public Resources Code.

5 (4) Oil-filled electrical equipment, including, but not limited  
6 to, transformers, circuit breakers, or capacitors, if the oil-filled  
7 electrical equipment meets either of the following conditions:

8 (A) The equipment contains less than 10,000 gallons of dielectric  
9 fluid.

10 (B) The equipment contains 10,000 gallons or more of dielectric  
11 fluid with PCB levels less than 50 parts per million, appropriate  
12 containment or diversionary structures or equipment are employed  
13 to prevent discharged oil from reaching a navigable water course,  
14 and the electrical equipment is visually inspected in accordance  
15 with the usual routine maintenance procedures of the owner or  
16 operator.

17 (5) A tank regulated as an underground storage tank under  
18 Chapter 6.7 (commencing with Section 25280) *of this code* and  
19 Chapter 16 (commencing with Section 2610) of Division 3 of Title  
20 23 of the California Code of Regulations.

21 (6) ~~Any~~ A transportation-related tank facility, subject to the  
22 authority and control of the United States Department of  
23 Transportation, as defined in the Memorandum of Understanding  
24 between the Secretary of Transportation and the Administrator of  
25 the United States Environmental Protection Agency, dated  
26 November 24, 1971, set forth in Appendix A to Part 112  
27 (commencing with Section 112.1) of Subchapter D of Chapter I  
28 of Title 40 of the Code of Federal Regulations.

29 (b) "Board" means the State Water Resources Control Board.

30 (c) (1) "Certified Unified Program Agency" or "CUPA" means  
31 the agency certified by the Secretary for Environmental Protection  
32 to implement the unified program specified in Chapter 6.11  
33 (commencing with Section 25404) within a jurisdiction.

34 (2) "Participating Agency" or "PA" means an agency that has  
35 a written agreement with the CUPA pursuant to subdivision (d)  
36 of Section 25404.3, and is approved by the secretary, to implement  
37 and enforce the unified program element specified in paragraph  
38 (2) of subdivision (c) of Section 25404, in accordance with Sections  
39 25404.1 and 25404.2.

1 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,  
2 or its participating agencies to the extent that each PA has been  
3 designated by the CUPA, pursuant to a written agreement, to  
4 implement and enforce the unified program element specified in  
5 paragraph (2) of subdivision (c) of Section 25404. The UPAs have  
6 the responsibility and authority, to the extent provided by this  
7 chapter and Sections 25404.1 and 25404.2, to implement and  
8 enforce the requirements of this chapter.

9 (B) After a CUPA has been certified by the secretary, the unified  
10 program agency shall be the only agency authorized to enforce the  
11 requirements of this chapter.-

12 (C) This paragraph ~~shall not be construed to~~ *does not* limit the  
13 authority or responsibility granted to the board and the regional  
14 boards by this chapter.

15 (d) “Operator” means the person responsible for the overall  
16 operation of a tank facility.

17 (e) “Owner” means the person who owns the tank facility or  
18 part of the tank facility.

19 (f) “Person” means an individual, trust, firm, joint stock  
20 company, corporation, including a government corporation,  
21 partnership, limited liability company, or association. “Person”  
22 also includes any city, county, district, the University of California,  
23 the California State University, the state, any department or agency  
24 thereof, and the United States, to the extent authorized by federal  
25 law.

26 (g) “Petroleum” means crude oil, or ~~any~~ *a* fraction thereof,  
27 ~~which~~ *that* is liquid at 60 degrees Fahrenheit temperature and 14.7  
28 pounds per square inch absolute pressure.

29 (h) “Regional board” means a California regional water quality  
30 control board.

31 (i) “Release” means any spilling, leaking, pumping, pouring,  
32 emitting, emptying, discharging, escaping, leaching, or disposing  
33 into the environment.

34 (j) “Secretary” means the Secretary for Environmental  
35 Protection.

36 (k) “Storage” or “store” means the containment, handling, or  
37 treatment of petroleum, for ~~any~~ *a* period of time, including on a  
38 temporary basis.

39 (l) “Storage capacity” means the aggregate capacity of all  
40 aboveground tanks at a tank facility.

(m) “Tank facility” means ~~any one, or combination of, one or~~ *more* aboveground storage tanks, including any piping that is integral to the ~~tank tanks~~, that ~~contains~~ *contain* petroleum and that ~~is~~ *are* used by a single business entity at a single location or site. For purposes of this chapter, a pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:

(1) The pipe is within the dike or containment area.

(2) The pipe is between the containment area and the first flange or valve outside the containment area.

(3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

SEC. 149. Section 25299.57 of the Health and Safety Code is amended to read:

25299.57. (a) If the board makes the determination specified in subdivision (d), the board may ~~only~~ pay *only* for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars (\$1,500,000) for each occurrence. In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article. The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove

1 the reimbursement of corrective action costs that have been  
2 incurred on the grounds that the costs were unreasonable or  
3 unnecessary, the board shall issue a notice advising the claimant  
4 and the lead agency of the proposed disallowance, to allow review  
5 and comment.

6 (2) The board shall not reject ~~any~~ actual costs of corrective  
7 action in a claim solely on the basis that the invoices submitted  
8 fail to sufficiently detail the actual costs incurred, if all of the  
9 following apply:

10 (A) Auxiliary documentation is provided that documents to the  
11 board's satisfaction that the invoice is for necessary corrective  
12 action work.

13 (B) The costs of corrective action work in the claim are  
14 reasonably commensurate with similar corrective action work  
15 performed during the same time period covered by the invoice for  
16 which reimbursement is sought.

17 (C) The invoices include a brief description of the work  
18 performed, the date that the work was performed, the vendor, and  
19 the amount.

20 (c) (1) For claims eligible for prepayment pursuant to  
21 subdivision (c) of Section 25299.55, the claimant shall submit the  
22 estimated cost of the corrective action to the board, which shall  
23 approve or disapprove the reasonableness of the cost estimate.

24 (2) If the claim is for reimbursement of costs incurred pursuant  
25 to a performance-based contract, Article 6.5 (commencing with  
26 Section 25299.64) shall apply to that claim.

27 (d) Except as provided in subdivision (j), a claim specified in  
28 subdivision (a) may be paid if the board makes all of the following  
29 findings:

30 (1) There has been an unauthorized release of petroleum into  
31 the environment from an underground storage tank.

32 (2) The claimant is required to undertake or contract for  
33 corrective action pursuant to Section 25296.10, or, as of January  
34 1, 1988, the claimant has initiated corrective action in accordance  
35 with Division 7 (commencing with Section 13000) of the Water  
36 Code.

37 (3) The claimant has complied with Section 25299.31.

38 (4) (A) Except as provided in subparagraphs (B) and (C), the  
39 claimant has complied with the permit requirements of Chapter  
40 6.7 (commencing with Section 25280). A claimant shall obtain a

1 permit required by subdivision (a) of Section 25284 for the  
2 underground storage tank that is the subject of the claim when the  
3 claimant becomes subject to subdivision (a) of Section 25284 or  
4 when the applicable local agency begins issuing permits pursuant  
5 to subdivision (a) of Section 25284, whichever occurs later.

6 (B) A claimant who acquires real property on which an  
7 underground storage tank is situated and, despite the exercise of  
8 reasonable diligence, was unaware of the existence of the  
9 underground storage tank when the real property was acquired,  
10 has obtained a permit required by subdivision (a) of Section 25284  
11 for the underground storage tank that is the subject of the claim  
12 within a reasonable period, not to exceed one year, from when the  
13 claimant should have become aware of the existence of the  
14 underground storage tank, or when the applicable local agency  
15 began issuing permits pursuant to Section 25284, whichever occurs  
16 later.

17 (C) All claimants who file their claim on or after January 1,  
18 2008, and who do not obtain a permit required by subdivision (a)  
19 of Section 25284 in accordance with subparagraph (A) or (B) may  
20 seek a waiver of the requirement to obtain a permit. The board  
21 shall waive the provisions of subparagraphs (A) and (B) as a  
22 condition for payment from the fund if the board finds all of the  
23 following:

24 (i) The claimant was unaware of the permit requirement, and  
25 upon becoming aware of the permit requirement, the claimant  
26 complies with subdivision (a) of Section 25284 or *Section 25298*  
27 and the regulations adopted to implement those sections within a  
28 reasonable period, not to exceed one year, from when the claimant  
29 became aware of the permit requirement.

30 (ii) Prior to submittal of the application to the fund, the claimant  
31 has complied with Section 25299.31 and has obtained and paid  
32 for all permits currently required by this paragraph.

33 (iii) Prior to submittal of the application to the fund, the claimant  
34 has paid all fees, interest, and penalties imposed pursuant to Article  
35 5 (commencing with Section 25299.40) *of this chapter* and Part  
36 26 (commencing with Section 50101) of Division 2 of the Revenue  
37 and Taxation Code for the underground storage tank that is the  
38 subject of the claim.

39 (D) (i) A claimant *who is* exempted pursuant to subparagraph  
40 (C) and who has complied, on or before December 22, 1998, with

subdivision (a) of Section 25284 or *Section* 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars (\$10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to ~~obtained~~ *obtain* pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars (\$20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph ~~(B)~~ (C) were satisfied prior to the causing of any contamination. ~~That~~ *The* demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(5) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(6) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40) *of this chapter* and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of commitment authorizing payment of the costs from the fund.

(f) The claimant may submit a request for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

1 (g) (1) A claimant who submits a claim for payment to the  
2 board shall submit multiple bids for prospective costs as prescribed  
3 in regulations adopted by the board pursuant to Section 25299.77.

4 (2) A claimant who submits a claim to the board for the payment  
5 of professional engineering and geologic work shall submit  
6 multiple proposals and fee estimates, as required by the regulations  
7 adopted by the board pursuant to Section 25299.77. The claimant's  
8 selection of the provider of these services is not required to be  
9 based on the lowest estimated fee, if the fee estimate conforms  
10 with the range of acceptable costs established by the board.

11 (3) A claimant who submits a claim for payment to the board  
12 for remediation construction contracting work shall submit multiple  
13 bids, as required in the regulations adopted by the board pursuant  
14 to Section 25299.77.

15 (4) Paragraphs (1), (2), and (3) do not apply to a tank owned or  
16 operated by a public agency if the prospective costs are for private  
17 professional services within the meaning of Chapter 10  
18 (commencing with Section 4525) of Division 5 of Title 1 of the  
19 Government Code and those services are procured in accordance  
20 with the requirements of that chapter.

21 (h) The board shall provide, upon the request of a claimant,  
22 assistance to the claimant in the selection of contractors retained  
23 by the claimant to conduct reimbursable work related to corrective  
24 actions. The board shall develop a summary of expected costs for  
25 common corrective actions. This summary of expected costs may  
26 be used by claimants as a guide in the selection and supervision  
27 of consultants and contractors.

28 (i) The board shall pay, within 60 days from the date of receipt  
29 of an invoice of expenditures, all costs specified in the work plan  
30 developed pursuant to Section 25296.10, and all costs that are  
31 otherwise necessary to comply with an order issued by a local,  
32 state, or federal agency.

33 (j) (1) The board shall pay a claim of not more than three  
34 thousand dollars (\$3,000) per occurrence for regulatory technical  
35 assistance to an owner or operator who is otherwise eligible for  
36 reimbursement under this chapter.

37 (2) For the purposes of this subdivision, regulatory technical  
38 assistance is limited to assistance from a person, other than the  
39 claimant, in the preparation and submission of a claim to the fund.  
40 Regulatory technical assistance does not include assistance in



1 connection with proceedings under Section 25296.40, 25299.39.2,  
2 or 25299.56 or any action in court.

3 (k) (1) Notwithstanding any other provision of this section, the  
4 board shall pay a claim for the costs of corrective action to a person  
5 who owns property on which is located a release from a petroleum  
6 underground storage tank that has been the subject of a completed  
7 corrective action and for which additional corrective action is  
8 required because of additionally discovered contamination from  
9 the previous release, only if the person who carried out the earlier  
10 and completed corrective action was eligible for, and applied for,  
11 reimbursement pursuant to subdivision (b), and only to the extent  
12 that the amount of reimbursement for the earlier corrective action  
13 did not exceed the amount of reimbursement authorized by  
14 subdivision (a). Reimbursement to a claimant on a reopened site  
15 shall occur when funds are available, and reimbursement  
16 commitment shall be made ahead of any new letters of commitment  
17 to be issued, as of the date of the reopening of the claim, if funding  
18 has occurred on the original claim, in which case funding shall  
19 occur at the time it would have occurred under the original claim.

20 (2) For purposes of this subdivision, a corrective action is  
21 completed when the local agency or regional board with  
22 jurisdiction over the site or the board issues a closure letter pursuant  
23 to subdivision (g) of Section 25296.10.

24 SEC. 150. Section 25299.58 of the Health and Safety Code is  
25 amended to read:

26 25299.58. (a) Except as provided in subdivision (d), if the  
27 board makes the determination specified in subdivision (b), the  
28 board may ~~only~~ reimburse *only* those costs that are related to the  
29 compensation of third parties for bodily injury and property  
30 damages and that exceed the level of financial responsibility  
31 required to be obtained pursuant to Section 25299.32, but not more  
32 than one million dollars (\$1,000,000) for each occurrence.

33 (b) A claim may be paid if the board makes all of the following  
34 findings:

35 (1) There has been an unauthorized release of petroleum into  
36 the environment from an underground storage tank.

37 (2) The claimant has been ordered to pay a settlement or final  
38 judgment for third-party bodily injury or property damage arising  
39 from operating an underground storage tank.

40 (3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or *Section 25298* and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of *this chapter* and Part 26 (commencing with Section 50101) of Division 2 of the Revenue

1 and Taxation Code for the underground storage tank that is the  
2 subject of the claim.

3 (D) (i) A claimant *who is* exempted pursuant to subparagraph  
4 (C) and who has complied, on or before December 22, 1998, with  
5 subdivision (a) of Section 25284 or *Section* 25298 and the  
6 regulations adopted to implement those sections, shall obtain a  
7 level of financial responsibility in an amount twice as great as the  
8 amount that the claimant is otherwise required to obtain pursuant  
9 to subdivision (a) of Section 25299.32, but in no event less than  
10 ten thousand dollars (\$10,000). All other claimants exempted  
11 pursuant to subparagraph (C) shall obtain a level of financial  
12 responsibility that is four times as great as the amount that the  
13 claimant is otherwise required to ~~obtained~~ *obtain* pursuant to  
14 subdivision (a) of Section 25299.32, but in no event less than  
15 twenty thousand dollars (\$20,000).

16 (ii) The board may waive the requirements of clause (i) if the  
17 claimant can demonstrate that the conditions specified in clauses  
18 (i) to (iii), inclusive, of subparagraph ~~(B)~~ (C) were satisfied prior  
19 to any contamination having been caused. ~~That~~ *The* demonstration  
20 may be made through a certification issued by the permitting  
21 agency based on a site evaluation and tank tests at the time of  
22 permit application or in any other manner as may be acceptable  
23 to the board.

24 (E) All claimants who file a claim before January 1, 2008, and  
25 who are not eligible for a waiver of the permit requirements  
26 pursuant to applicable statutes or regulations in effect on the date  
27 of the filing of the claim may resubmit a new claim pursuant to  
28 subparagraph (C) on or after January 1, 2008. The board shall rank  
29 all claims resubmitted pursuant to subparagraph (C) lower than  
30 all claims filed before January 1, 2008, within their respective  
31 priority classes specified in subdivision (b) of Section 25299.52.

32 (4) The claimant is required to undertake or contract for  
33 corrective action pursuant to Section 25296.10, or, as of January  
34 1, 1988, the claimant has initiated corrective action in accordance  
35 with Division 7 (commencing with Section 13000) of the Water  
36 Code or Chapter 6.7 (commencing with Section 25280).

37 (5) The claimant has paid all fees, interest, and penalties imposed  
38 pursuant to Article 5 (commencing with Section 29299.40) *of this*  
39 *chapter* and Part 26 (commencing with Section 50101) of Division

1 2 of the Revenue and Taxation Code for the underground storage  
2 tank that is the subject of the claim.

3 (c) A claimant may be reimbursed by the fund for compensation  
4 of third parties for only the following:

5 (1) Medical expenses.

6 (2) Actual lost wages or business income.

7 (3) Actual expenses for remedial action to remedy the effects  
8 of damage to the property of the third party caused by the  
9 unauthorized release of petroleum from an underground storage  
10 tank.

11 (4) The fair market value of the property rendered permanently  
12 unsuitable for use by the unauthorized release of petroleum from  
13 an underground storage tank.

14 (d) The board shall pay a claim submitted pursuant to  
15 subdivision (d) of Section 25299.54 for the costs related to the  
16 compensation of third parties for bodily injury and property  
17 damages that exceed the level of financial responsibility required  
18 to be obtained pursuant to paragraph (2) of subdivision (a) of  
19 Section 25299.32, but not more than one million dollars  
20 (\$1,000,000) for each occurrence.

21 SEC. 151. Section 39625.02 of the Health and Safety Code is  
22 amended to read:

23 39625.02. (a) As used in this chapter and in Chapter 12.49  
24 (commencing with Section 8879.20) of Division 1 of Title 2 of  
25 the Government Code, the following terms have the following  
26 meanings:

27 (1) “Administrative agency” means the state agency responsible  
28 for programming bond funds made available by Chapter 12.49  
29 (commencing with Section 8879.20) of Division 1 of Title 2 of  
30 the Government Code, as specified in subdivision (c).

31 (2) Unless otherwise specified in this chapter, “project” includes  
32 equipment purchase, right-of-way acquisition, and project delivery  
33 costs.

34 (3) “Recipient agency” means the recipient of bond funds made  
35 available by Chapter 12.49 (commencing with Section 8879.20)  
36 of Division 1 of Title 2 of the Government Code that is responsible  
37 for implementation of an approved project.

38 (4) “Fund” shall have the meaning as defined in subdivision (c)  
39 of Section ~~8879.20~~ 8879.22 of the Government Code.

1 (b) Administrative costs, including audit and program oversight  
2 costs for the agency administering the program funded pursuant  
3 to this chapter, recoverable by bond funds shall not exceed 5  
4 percent of the program's costs.

5 (c) The State Air Resources Board is the administrative agency  
6 for the ~~Goods Movement Emission Reduction Program~~ *goods*  
7 *movement emission reduction program* pursuant to paragraph (2)  
8 of subdivision (c) of Section 8879.23 of the Government Code.

9 (d) The administrative agency ~~may~~ *shall* not approve project  
10 fund allocations for ~~any~~ *a* project until the recipient agency  
11 provides a project funding plan that demonstrates that the funds  
12 are expected to be reasonably available and sufficient to complete  
13 the project. The administrative agency may approve funding for  
14 ~~useable~~ *usable* project segments only if the benefits associated  
15 with each individual segment are sufficient to meet the objectives  
16 of the program from which the individual segment is funded.

17 (e) Guidelines adopted by the administrative agency pursuant  
18 to this chapter and Chapter 12.49 (commencing with Section  
19 8879.20) of Division 1 of Title 2 of the Government Code are  
20 intended to provide internal guidance for the agency and shall be  
21 exempt from the Administrative Procedure Act (Chapter 3.5  
22 (commencing with Section 11340) of Part 1 of Division 3 of *Title*  
23 *2* of the Government Code), and shall do all of the following:

24 (1) Provide for audit of project expenditures and outcomes.

25 (2) Require that the useful life of the project be identified as  
26 part of the project nomination process.

27 (3) Require that project nominations have project delivery  
28 milestones, including, but not limited to, start and completion dates  
29 for environmental clearance, land acquisition, design, construction  
30 bid award, construction completion, and project closeout, as  
31 applicable.

32 (f) (1) As a condition for allocation of funds to a specific project  
33 under Chapter 12.49 (commencing with Section 8879.20) *of*  
34 *Division 1 of Title 2 of the Government Code*, the administrative  
35 agency shall require the recipient agency to report, on a semiannual  
36 basis, on the activities and progress made toward implementation  
37 of the project. The administrative agency shall forward the report  
38 to the Department of Finance by means approved by the  
39 Department of Finance. The purpose of the report is to ensure that  
40 the project is being executed in a timely fashion, and is within the

scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 152. Section 43869 of the Health and Safety Code is amended to read:

43869. (a) The state board shall, no later than July 1, 2008, develop and, after at least two public workshops, adopt hydrogen fuel regulations to ensure the following:

(1) That state funding for the production and use of hydrogen fuel, as described in the California Hydrogen Highway Blueprint Plan, contributes to the reduction of greenhouse gas emissions, criteria air pollutant emissions, and toxic air contaminant emissions. The regulations ~~shall~~, at a minimum, *shall* do all of the following:

(A) Require that, on a statewide basis, well-to-wheel emissions of greenhouse gases for the average ~~hydrogen-powered~~ *hydrogen-powered* vehicle fueled by hydrogen from fueling stations that receive state funds are at least 30 percent lower than emissions for the average new gasoline vehicle in California when measured on a per-mile basis.

(2) ~~(A)~~ (B) (i) Require that, on a statewide basis, no less than 33.3 percent of the hydrogen produced for, or dispensed by, fueling stations that receive state funds be made from eligible renewable

1 energy resources as defined in Section 399.12 of the Public Utilities  
2 Code.

3 ~~(B)~~

4 (ii) If the state board determines that there is insufficient  
5 availability of hydrogen fuel from eligible renewable resources to  
6 meet the ~~33.3 percent~~ 33.3-percent requirement of this ~~paragraph~~  
7 *subparagraph*, the state board may, after at least one public  
8 workshop and on a one-time basis, reduce the requirement by an  
9 amount, not to exceed 10 percentage points, that the state board  
10 determines is necessary to result in a renewable percentage  
11 requirement for hydrogen fuel that is achievable.

12 ~~(C)~~

13 (iii) If the executive officer of the state board determines that  
14 it is not feasible for a public transit operator to use hydrogen fuel  
15 made from eligible renewable resources, the executive officer may  
16 exempt the operator from the requirements of this ~~paragraph~~  
17 *subparagraph* for a period of not more than five years and may  
18 extend the exemption for up to five additional years.

19 ~~(3)~~

20 (C) Prohibit hydrogen fuel producers from counting as a  
21 renewable energy resource, pursuant to ~~paragraph (2)~~ *clause (i) of*  
22 *subparagraph (B)*, any electricity produced from sources previously  
23 procured by a retail seller and verifiably counted by the retail seller  
24 towards meeting the renewables portfolio standard obligation, as  
25 required by Article 16 (commencing with Section 399.11) of  
26 Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

27 ~~(4)~~

28 (D) Require that all hydrogen fuel dispensed from fueling  
29 stations that receive state funds be generated in a manner so that  
30 local well-to-tank emissions of nitrogen oxides plus reactive  
31 organic gases are at least 50 percent lower than well-to-tank  
32 emissions of the average motor gasoline sold in California when  
33 measured on an energy equivalent basis.

34 ~~(5)~~

35 (E) Require that well-to-tank emissions of relevant toxic air  
36 contaminants for hydrogen fuel dispensed from fueling stations  
37 that receive state funds be reduced to the maximum extent feasible  
38 at each site when compared to well-to-tank emissions of toxic air  
39 contaminants of the average motor gasoline fuel on an  
40 energy-equivalent basis. In no case shall the toxic emissions be

greater than the emissions from gasoline on an energy equivalent basis.

~~(6)~~

(F) Require that providers of hydrogen fuel for transportation in the state report to the state board the annual mass of hydrogen fuel dispensed and the method by which the dispensed hydrogen was produced and delivered.

~~(7)~~

(G) Authorize the state board, after at least one public workshop, to grant authority to the executive officer of the state board to exempt from this ~~subdivision~~ *paragraph*, for a period of no more than five years, hydrogen dispensing facilities constructed for small demonstration or temporary purposes. The exemption may be extended on a case-by-case basis upon a finding that the extension will not harm public health. The executive officer may limit the total number of exemptions by geographic region, including by air district, but the average annual mass of hydrogen dispensed from exempted facilities shall not exceed 10 percent of the total mass of hydrogen fuel dispensed for transportation purposes in the state.

~~(b)~~

(2) That, in any year immediately following a 12-month period in which the mass of hydrogen fuel dispensed for transportation purposes in California exceeds 3,500 metric tons, the production and direct use of hydrogen fuels for motor vehicles in the state, including, but not limited to, any hydrogen highway network that is developed pursuant to the California Hydrogen Highway Blueprint Plan, contributes to a reduced dependence on petroleum, as well as reductions in greenhouse gas emissions, criteria air pollutant emissions, and toxic air contaminant emissions. For the purpose of this ~~subdivision~~ *paragraph*, the regulations, at a minimum, shall do all of the following:

~~(1)~~

(A) Require that, on a statewide basis, well-to-wheel emissions of greenhouse gases for the average ~~hydrogen-powered~~ *hydrogen-powered* vehicle in California are at least 30 percent lower than emissions for the average new gasoline vehicle in California when measured on a per-mile basis.

~~(2)~~



(B) Require that, on a statewide basis, no less than 33.3 percent of the hydrogen produced or dispensed in California for motor vehicles be made from eligible renewable energy resources as defined in Section 399.12 of the Public Utilities Code.

~~(3)~~

(C) Prohibit hydrogen fuel producers from counting as a renewable energy resource, for the purposes of ~~paragraph (2)~~ *subparagraph (B)*, any electricity produced from sources previously procured by a retail seller and verifiably counted by the retail seller towards meeting the requirements established by the California Renewables Portfolio Standard Program, as set forth in Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

~~(4)~~

(D) Require that all hydrogen fuel dispensed in California for motor vehicles be generated in a manner so that local well-to-tank emissions of nitrogen oxides plus reactive organic gases are at least 50 percent lower than well-to-tank emissions of the average motor gasoline sold in California when measured on an energy equivalent basis.

~~(5)~~

(E) Require that well-to-tank emissions of relevant toxic air contaminants from hydrogen fuel produced or dispensed in California be reduced to the maximum extent feasible at each site when compared to well-to-tank emissions of toxic air contaminants of the average motor gasoline fuel on an energy-equivalent basis. In no case shall the toxic emissions from hydrogen fuel be greater than the toxic emissions from gasoline on an energy-equivalent basis.

~~(6)~~

(F) Authorize the state board, after at least one public workshop, to grant authority to the executive officer of the state board to exempt from this ~~subdivision~~ *paragraph*, for a period of no more than five years, hydrogen dispensing facilities that dispense an average of no more than 100 kilograms of hydrogen fuel per month. The exemption may be extended on a case-by-case basis by the executive officer upon a finding that the extension will not harm public health. The executive officer may limit the total number of exemptions by geographic region, including by air district, but the average annual mass of hydrogen dispensed statewide from

1 exempted facilities shall not exceed 10 percent of the total mass  
2 of hydrogen fuel dispensed for transportation purposes in the state.

3 ~~(7)~~

4 (G) Authorize the state board, if it determines that reporting is  
5 necessary to facilitate enforcement of the requirements of this  
6 ~~subdivision paragraph~~, to require that providers of hydrogen fuel  
7 for transportation in the state report to the state board the annual  
8 mass of hydrogen fuel dispensed and the method by which the  
9 dispensed hydrogen was produced and delivered.

10 ~~(e)~~

11 (b) Notwithstanding *paragraph (2) of subdivision-(b) (a)*, the  
12 state board may increase the 3,500-metric-ton threshold in  
13 *paragraph (2) of subdivision-(b) (a)* by no more than 1,500 metric  
14 tons if at least one of the following requirements is met:

15 (1) The 3,500-metric-ton threshold is first met prior to January  
16 1, 2011.

17 (2) The state board determines that the 3,500-metric-ton  
18 threshold has been met primarily due to hydrogen fuel consumed  
19 in heavy duty vehicles.

20 (3) The state board determines at a public hearing that increasing  
21 the threshold would accelerate the deployment of hydrogen fuel  
22 cell vehicles in the state.

23 ~~(d)~~

24 (c) The state board, in consultation with other relevant agencies  
25 as appropriate, shall review the renewable resource requirements  
26 adopted pursuant to ~~paragraphs (2) and (3) of subdivision (a) and~~  
27 ~~paragraphs (2) and (3) of subdivision (b)~~ *this section* every four  
28 years and shall increase the renewable resource percentage  
29 requirements if it determines that it is technologically feasible to  
30 do so and will not substantially hinder the development of hydrogen  
31 as a transportation fuel in a manner that is consistent with this  
32 section.

33 ~~(e)~~

34 (d) The state board shall review the emission requirements  
35 adopted pursuant to ~~paragraphs (1), (4), and (5) of subdivision (a)~~  
36 ~~and paragraphs (1), (4), and (5) of subdivision (b)~~ *this section*  
37 every four years and shall strengthen the requirements if it  
38 determines it is technologically feasible to do so and will not  
39 substantially hinder the development of hydrogen as a

1 transportation fuel in a manner that *otherwise* is consistent with  
2 this section.

3 ~~(f)~~

4 (e) The state board shall produce and periodically update a  
5 handbook to inform and educate motor vehicle manufacturers,  
6 hydrogen fuel producers, hydrogen service station operators, and  
7 other interested parties on how to comply with the requirements  
8 set forth in this section. This handbook shall be made available on  
9 the agency's Internet Web site on or before July 1, 2009.

10 ~~(g)~~

11 (f) The Secretary for Environmental Protection shall convene  
12 the California Environmental Protection Agency's Environmental  
13 Justice Advisory Committee at least once annually to solicit the  
14 committee's comments on the production and distribution of  
15 hydrogen fuel in the state.

16 ~~(h)~~

17 (g) The Secretary for Environmental Protection, in consultation  
18 with the state board, shall recommend to the Legislature and the  
19 Governor, on or before January 1, 2010, incentives that could be  
20 offered to businesses within the hydrogen fuel industry and  
21 consumers to spur the development of clean sources of hydrogen  
22 fuel.

23 ~~(i)~~

24 (h) Unless the context requires otherwise, the definitions set  
25 forth in this subdivision govern the construction of this section:

26 (1) "Well-to-tank emissions" means emissions resulting from  
27 production of a fuel, including resource extraction, initial  
28 processing, transport, fuel production, distribution and marketing,  
29 and delivery into the fuel tank of a consumer vehicle.

30 (2) "Well-to-wheel emissions" means emissions resulting from  
31 production of a fuel, including resource extraction, initial  
32 processing, transport, fuel production, distribution and marketing,  
33 and delivery and use in a consumer vehicle.

34 SEC. 153. Section 44125 of the Health and Safety Code is  
35 amended to read:

36 44125. (a) No later than July 1, 2009, the state board, in  
37 consultation with the Bureau of Automotive Repair (BAR), shall  
38 adopt a program to commence on January 1, 2010, that allows for  
39 the ~~voluntarily~~ *voluntary* retirement of passenger vehicles and  
40 light-duty and medium-duty trucks that are high polluters. The

1 program shall be administered by the BAR pursuant to guidelines  
2 adopted by the state board.

3 (b) The guidelines shall ensure all of the following:

4 (1) Vehicles retired pursuant to the program are permanently  
5 removed from operation and retired at a dismantler under contract  
6 with the BAR.

7 (2) Districts retain their authority to administer vehicle  
8 retirement programs otherwise authorized under law.

9 (3) The program is available for high polluting passenger  
10 vehicles and light-duty and medium-duty trucks that have been  
11 continuously registered in California for two years prior to  
12 acceptance into the program or otherwise proven to have been  
13 driven primarily in California for the last two years and have not  
14 been registered in ~~any other~~ *another* state or country in the last  
15 two years.

16 (4) The program is focused where the greatest air quality impact  
17 can be identified.

18 (5) Compensation levels for retired vehicles are flexible, taking  
19 into account factors including, but not limited to, the age of the  
20 vehicle, the emission benefits of the vehicle's retirement, the  
21 ~~emissions~~ *emission* impact of any replacement vehicle, and the  
22 location of vehicles in areas of the state with the poorest air quality.

23 (6) Cost-effectiveness and impacts on disadvantaged and  
24 low-income populations are considered.

25 SEC. 154. Section 44272 of the Health and Safety Code is  
26 amended to read:

27 44272. (a) The Alternative and Renewable Fuel and Vehicle  
28 Technology Program is hereby created. The program shall be  
29 administered by the commission. The program shall provide, upon  
30 appropriation by the Legislature, grants, revolving loans, loan  
31 guarantees, loans, or other appropriate measures, to public agencies,  
32 vehicle and technology consortia, businesses and projects,  
33 public-private partnerships, workforce training partnerships and  
34 collaboratives, fleet owners, consumers, recreational boaters, and  
35 academic institutions to develop and deploy innovative  
36 technologies that transform California's fuel and vehicle types to  
37 help attain the state's climate change policies. The emphasis of  
38 this program shall be to develop and deploy technology and  
39 alternative and renewable fuels in the marketplace, without  
40 adopting any one preferred fuel or technology.

(b) The commission shall provide preferences to those projects that maximize the goals of the Alternative and Renewable Fuel and Vehicle Technology Program created by Section 44272, based on the following criteria, as appropriate:

(1) The project's ability to provide a measurable transition from the nearly exclusive use of petroleum fuels to a diverse portfolio of viable alternative fuels that meet petroleum reduction and alternative fuel use goals.

(2) The project's consistency with existing and future state climate change policy and low-carbon fuel standards.

(3) The project's ability to reduce criteria air pollutants and air toxics and reduce or avoid multimedia environmental impacts.

(4) The project's ability to decrease, on a life-cycle basis, the emissions of water pollutants or any other substances known to damage human health or the environment, in comparison to the production and use of California Phase 2 Reformulated Gasoline or diesel fuel produced and sold pursuant to California diesel fuel regulations set forth in Article 2 (commencing with Section 2280) of Chapter 5 of Division 3 of Title 13 of the California Code of Regulations.

(5) The project does not adversely impact the sustainability of the state's natural resources, especially state and federal lands.

(6) The project provides nonstate matching funds.

(7) The project provides economic benefits for California by promoting California-based technology firms, jobs, and businesses.

(8) The project uses existing or proposed fueling infrastructure to maximize the outcome of the project.

(9) The project's ability to reduce on a life-cycle assessment greenhouse gas emissions by at least 10 percent, and higher percentages in the future, from current reformulated gasoline and diesel fuel standards established by the state board.

(10) The project's use of alternative fuel blends of at least 20 percent, and higher blend ratios in the future, with a preference for projects with higher blends.

(11) The project drives new technology advancement for vehicles, vessels, engines, and other equipment, and promotes the deployment of that technology in the marketplace.

(c) All of the following shall be eligible for funding:

(1) Alternative and renewable fuel projects to develop and improve alternative and renewable low-carbon fuels, including

1 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,  
2 hydrogen, and biomethane, among others, and their feedstocks  
3 that have high potential for long-term or short-term  
4 commercialization, including projects that lead to sustainable  
5 feedstocks.

6 (2) Demonstration and deployment projects that optimize  
7 alternative and renewable fuels for existing and developing engine  
8 technologies.

9 (3) Projects to produce alternative and renewable low-carbon  
10 fuels in California.

11 (4) Projects to decrease the overall impact of an alternative and  
12 renewable fuel's life-cycle carbon footprint and increase  
13 sustainability.

14 (5) Alternative and renewable fuel infrastructure, fueling  
15 stations, and equipment. The preference in paragraph (10) of  
16 subdivision (b) shall not apply to these projects.

17 (6) Projects to develop and improve light-, medium-, and  
18 heavy-duty vehicle technologies that provide for better fuel  
19 efficiency and lower greenhouse gas emissions, alternative fuel  
20 usage and storage, or emission reductions, including propulsion  
21 systems, advanced internal combustion engines with a ~~40 percent~~  
22 *40-percent* or better efficiency level over the current market  
23 standard, ~~light-weight~~ *lightweight* materials, energy storage, control  
24 systems and system integration, physical measurement and  
25 metering systems and software, development of design standards  
26 and testing and certification protocols, battery recycling and reuse,  
27 engine and fuel optimization electronic and electrified components,  
28 hybrid technology, plug-in hybrid technology, fuel cell technology,  
29 and conversions of hybrid technology to plug-in technology  
30 through the installation of safety certified supplemental battery  
31 modules.

32 (7) Programs and projects that accelerate the commercialization  
33 of vehicles and alternative and renewable fuels including buy-down  
34 programs through near-market and market-path deployments,  
35 advanced technology warranty or replacement insurance,  
36 development of market niches, and supply-chain development.

37 (8) Programs and projects to retrofit medium- and heavy-duty  
38 on-road and nonroad vehicle fleets with technologies that create  
39 higher fuel efficiencies, including alternative and renewable fuel

1 vehicles and technologies, idle management technology, and  
2 aerodynamic retrofits that decrease fuel consumption.

3 (9) Infrastructure projects that promote alternative and renewable  
4 fuel infrastructure development connected with existing fleets,  
5 public transit, and existing transportation corridors, including  
6 physical measurement or metering equipment and truck stop  
7 electrification.

8 (10) Workforce training programs related to alternative and  
9 renewable fuel feedstock production and extraction, renewable  
10 fuel production, distribution, transport, and storage,  
11 high-performance and low-emission vehicle technology and high  
12 tower electronics, automotive computer systems, mass transit fleet  
13 conversion, servicing, and maintenance, and other sectors or  
14 occupations related to the purposes of this chapter.

15 (11) Block grants administered by not-for-profit technology  
16 consortia for multiple projects, education and program promotion  
17 within California, and development of alternative and renewable  
18 fuel and vehicle technology centers.

19 (d) The same requirements in Section 25620.5 of the Public  
20 Resources Code shall apply to awards made on a single source  
21 basis or a sole sources basis.

22 SEC. 155. Section 101317 of the Health and Safety Code is  
23 amended to read:

24 101317. (a) For purposes of this article, allocations shall be  
25 made to the administrative bodies of qualifying local health  
26 jurisdictions described as public health administrative organizations  
27 in Section 101185, and pursuant to Section 101315, in the  
28 following manner:

29 (1) (A) For the 2003–04 fiscal year and subsequent fiscal years,  
30 to the administrative bodies of each local health jurisdiction, a  
31 basic allotment of one hundred thousand dollars (\$100,000), subject  
32 to the availability of funds appropriated in the annual Budget Act  
33 or ~~some other~~ *another* act.

34 (B) For the 2002–03 fiscal year, the basic allotment of one  
35 hundred thousand dollars (\$100,000) shall be reduced by the  
36 amount of federal funding allocated as part of a basic allotment  
37 for the purposes of this article to local health jurisdictions in the  
38 2001–02 fiscal year.

39 (2) (A) Except as provided in subdivision (c), after determining  
40 the amount allowed for the basic allotment as provided in paragraph

(1), the balance of the annual appropriation for purposes of this article, if any, shall be allotted on a per capita basis to the administrative bodies of each local health jurisdiction in the proportion that the population of that local health jurisdiction bears to the population of all eligible local health jurisdictions of the state.

(B) The population estimates used for the calculation of the per capita allotment pursuant to subparagraph (A) shall be based on the Department of Finance's E-1 Report, "~~City/County Populations~~ *Population Estimates with Annual Percentage Changes*" *Change*," as of January 1 of the previous year. However, if within a local health jurisdiction there are one or more city health jurisdictions, the local health jurisdiction shall subtract the population of the city or cities from the local health jurisdiction total population for purposes of calculating the per capita total.

(b) If the amounts appropriated are insufficient to fully fund the allocations specified in subdivision (a), the department shall prorate and adjust each local health jurisdiction's allocation so that the total amount allocated equals the amount appropriated.

(c) For the 2002–03 fiscal year and subsequent fiscal years, where the federally approved collaborative state-local plan identifies an allocation method, other than the basic allotment and per capita method described in subdivision (a), for specific funding to a local public health jurisdiction, including, but not limited to, funding laboratory training, chemical and nuclear terrorism preparedness, smallpox preparedness, and information technology approaches, that funding shall be paid to the administrative bodies of those local health jurisdictions in accordance with the federally approved collaborative state-local plan for bioterrorism preparedness and other public health threats in the state.

(d) Funds appropriated pursuant to the annual Budget Act or ~~some other~~ *another* act for allocation to local health jurisdictions pursuant to this article shall be disbursed quarterly to local health jurisdictions beginning July 1, 2002, using the following process:

(1) Each fiscal year, upon the submission of an application for funding by the administrative body of a local health jurisdiction, the department shall make the first quarterly payment to each eligible local health jurisdiction. Initially, that application shall include a plan and budget for the local program that is in accordance with the department's plans and priorities for



1 bioterrorism preparedness and response, and other public health  
2 threats and emergencies, and a certification by the chairperson of  
3 the board of supervisors or the mayor of a city with a local health  
4 department that the funds received pursuant to this article will not  
5 be used to supplant other funding sources in violation of  
6 subdivision (d) of Section 101315. In subsequent years, the  
7 department shall develop a streamlined process for continuation  
8 of funding that will address new federal requirements and will  
9 assure the continuity of local plan activities.

10 (2) The department shall establish procedures and a format for  
11 the submission of the local health jurisdiction's plan and budget.  
12 The local health jurisdiction's plan shall be consistent with the  
13 department's plans and priorities for bioterrorism preparedness  
14 and response and other public health threats and emergencies in  
15 accordance with requirements specified in the department's federal  
16 grant award. Payments to local health jurisdictions beyond the first  
17 quarter shall be contingent upon the approval of the department  
18 of the local health jurisdiction's plan and the local health  
19 jurisdiction's progress in implementing the provisions of the local  
20 health jurisdiction's plan, as determined by the department.

21 (3) If a local health jurisdiction does not apply or submits a  
22 noncompliant application for its allocation, those funds provided  
23 under this article may be redistributed according to subdivision  
24 (a) to the remaining local health jurisdictions.

25 (e) Funds shall be used for activities to improve and enhance  
26 local health jurisdictions' preparedness for and response to  
27 bioterrorism and other public health threats and emergencies, and  
28 for ~~any~~ other purposes, as determined by the department, that are  
29 consistent with the purposes for which the funds were appropriated.

30 (f) ~~Any~~ A local health jurisdiction that receives funds pursuant  
31 to this article shall deposit them in a special local public health  
32 preparedness trust fund established solely for this purpose before  
33 transferring or expending the funds for any of the uses allowed  
34 pursuant to this article. The interest earned on moneys in the fund  
35 shall accrue to the benefit of the fund and shall be expended for  
36 the same purposes as other moneys in the fund.

37 (g) (1) A local health jurisdiction that receives funding pursuant  
38 to this article shall submit reports that display cost data and the  
39 activities funded by moneys deposited in its local public health

1 preparedness trust fund to the department on a regular basis in a  
2 form and according to procedures prescribed by the department.

3 (2) The department, in consultation with local health  
4 jurisdictions, shall develop required content for the reports required  
5 under paragraph (1), which shall include, but shall not be limited  
6 to, data and information needed to implement this article and to  
7 satisfy federal reporting requirements. The chairperson of the board  
8 of supervisors or the mayor of a city with a local health department  
9 shall certify the accuracy of the reports and that the moneys  
10 appropriated for the purposes of this article have not been used to  
11 supplant other funding sources.

12 (3) It is the intent of the Legislature that the department shall  
13 audit the cost reports every three years, commencing in January  
14 2007, to determine compliance with federal requirements and  
15 consistency with local health jurisdiction budgets, contingent upon  
16 the availability of federal funds for this activity, and contingent  
17 upon the continuation of federal funding for emergency  
18 preparedness and bioterrorism preparedness. All cost-compliance  
19 reports and audit exceptions or related analyses or reports issued  
20 by the State Department of Public Health regarding the expenditure  
21 of funding for emergency and bioterrorism preparedness by local  
22 health jurisdictions shall be made available to the Legislature upon  
23 request.

24 (h) The administrative body of a local health jurisdiction may  
25 enter into a contract with the department and the department may  
26 enter into a contract with that local health jurisdiction for the  
27 department to administer all or a portion of the moneys allocated  
28 to the local health jurisdiction pursuant to this article. The  
29 department may use funds retained on behalf of a local *health*  
30 jurisdiction pursuant to this subdivision solely for the purposes of  
31 administering the jurisdiction's bioterrorism preparedness activities.  
32 The funds appropriated pursuant to this article and retained by the  
33 department pursuant to this subdivision are available for  
34 expenditure and encumbrance for the purposes of support or local  
35 assistance.

36 (i) The department may recoup from a local health jurisdiction  
37 ~~any~~ moneys allocated pursuant to this article that are unspent or  
38 that are not expended for purposes specified in subdivision (d).  
39 The department may also recoup funds expended by a local health  
40 jurisdiction in violation of subdivision (d) of Section 101315. The

1 department may withhold quarterly payments of moneys to a local  
2 health jurisdiction if the local health jurisdiction is not in  
3 compliance with this article or the terms of that local health  
4 jurisdiction's plan as approved by the department. Before any  
5 funds are recouped or withheld from a local health jurisdiction,  
6 the department shall meet with local health officials to discuss the  
7 status of the unspent moneys or the disputed use of the funds, or  
8 both.

9 (j) Notwithstanding any other provision of law, moneys made  
10 available for bioterrorism preparedness pursuant to this article in  
11 the 2001–02 fiscal year shall be available for expenditure and  
12 encumbrance until June 30, 2003. Moneys made available for  
13 bioterrorism preparedness pursuant to this article from July 1,  
14 2002, to August 30, 2003, inclusive, shall be available for  
15 expenditure and encumbrance until August 30, 2004. Moneys  
16 made available in the 2003–04 Budget Act for bioterrorism  
17 preparedness shall be available for expenditure and encumbrance  
18 until August 30, 2005.

19 SEC. 156. Section 111071 of the Health and Safety Code is  
20 amended to read:

21 111071. (a) As a condition of licensure, each bottled water  
22 plant, ~~as defined~~ *which has the same meaning as the definition* in  
23 subdivision (c) of Section 111070, shall annually prepare a bottled  
24 water report and shall, upon request, make that report available to  
25 each customer.

26 (b) The report shall be prepared in English, Spanish, and in the  
27 appropriate languages for each non-English-speaking group other  
28 than Spanish that exceeds 10 percent of the state's population.

29 (c) For purposes of complying with this section, when bottled  
30 water comes from a municipal source, the relevant information  
31 from the consumer confidence report or water quality report  
32 prepared for that year by the public water system pursuant to  
33 Section 116470, may be used.

34 (d) The bottled water report shall include, but not be limited to,  
35 all of the following:

36 (1) The source of the bottled water, consistent with applicable  
37 state and federal regulations.

38 (2) A brief and plainly worded definition of the terms "statement  
39 of quality," "maximum contaminant level," "primary drinking  
40 water standard," and "public health goal."

1 (3) A brief description of the treatment process.

2 (4) A reference to the United States Food and Drug  
3 Administration *Internet* Web site that provides product recall  
4 information.

5 (5) The bottled water company's address and telephone number  
6 that enables customers to obtain further information concerning  
7 contaminants and potential health effects.

8 (6) Information on the levels of unregulated substances, if any,  
9 for which water bottlers are required to monitor pursuant to state  
10 or federal law or regulation.

11 (7) (A) The following statement:

12 "Drinking water, including bottled water, may reasonably  
13 be expected to contain at least small amounts of some  
14 contaminants. The presence of contaminants does not  
15 necessarily indicate that water poses a health risk. More  
16 information about contaminants and potential health effects  
17 can be obtained by calling the United States Food and Drug  
18 Administration, Food and Cosmetic Hotline  
19 (1-888-723-3366)."

20 (B) If the telephone number for the United States Food and  
21 Drug Administration, Food and Cosmetic Hotline changes, the  
22 statement shall be updated to reflect the new telephone number.

23 (8) The following statement:

24 "Some persons may be more vulnerable to contaminants in  
25 drinking water than the general population. Immuno-compromised persons, including, but not limited to,  
26 persons with cancer who are undergoing chemotherapy,  
27 persons who have undergone organ transplants, persons with  
28 HIV/AIDS or other immune system disorders, some elderly  
29 persons, and infants can be particularly at risk from infections.  
30 These persons should seek advice about drinking water from  
31 their health care providers. The United States Environmental  
32 Protection Agency and the *federal* Centers for Disease Control  
33 and Prevention guidelines on appropriate means to lessen the  
34 risk of infection by cryptosporidium and other microbial  
35 contaminants are available from the Safe Drinking Water  
36 Hotline (1-800-426-4791)."

37 (9) The following statement:

38 "The sources of bottled water include rivers, lakes, streams,  
39 ponds, reservoirs, springs, and wells. As water naturally travels  
40

1 over the surface of the land or through the ground, it can pick  
2 up naturally occurring substances as well as substances that  
3 are present due to animal and human activity.

4 Substances that may be present in the source water include  
5 any of the following:

6 (1) Inorganic substances, including, but not limited to, salts  
7 and metals, that can be naturally occurring or result from  
8 farming, urban stormwater runoff, industrial or domestic  
9 wastewater discharges, or oil and gas production.

10 (2) Pesticides and herbicides that may come from a variety  
11 of sources, including, but not limited to, agriculture, urban  
12 stormwater runoff, and residential uses.

13 (3) Organic substances that are byproducts of industrial  
14 processes and petroleum production and can also come from  
15 gas stations, urban stormwater runoff, agricultural application,  
16 and septic systems.

17 (4) Microbial organisms that may come from wildlife,  
18 agricultural livestock operations, sewage treatment plants, and  
19 septic systems.

20 (5) Substances with radioactive properties that can be  
21 naturally occurring or be the result of oil and gas production  
22 and mining activities.”

23 (10) The following statement:  
24

25 “In order to ensure that bottled water is safe to drink, the  
26 United States Food and Drug Administration and the State  
27 Department of Public Health prescribe regulations that limit  
28 the amount of certain contaminants in water provided by  
29 bottled water companies.”

30 (11) (A) The following statement, if nitrate ( $\text{NO}_3$ ) levels above  
31 23 ppm but below 45 ppm (the Maximum Contaminant Level for  
32 nitrate ( $\text{NO}_3$ )) are detected:

33 “Nitrate in drinking water at levels above 45 mg/L is a health  
34 risk for infants of less than six months of age. These nitrate  
35 levels in drinking water can interfere with the capacity of the  
36 infant’s blood to carry oxygen, resulting in a serious illness.  
37 Symptoms include shortness of breath and blueness of the  
38 skin. Nitrate levels above 45 mg/L may also affect the ability  
39 of the blood to carry oxygen in other individuals, including,  
40 but not limited to, pregnant women and those with certain

1 specific enzyme deficiencies. If you are caring for an infant,  
2 or you are pregnant, you should ask advice from your health  
3 care provider.”

4 (B) If the nitrate disclosure requirements for municipal water  
5 suppliers are revised by the State Department of Public Health,  
6 this statement shall be updated to reflect the revision.

7 (12) (A) The following statement, if arsenic levels above 5 ppb,  
8 but below 10 ppb (the Maximum Contaminant Level for arsenic),  
9 are detected:

10 “Arsenic levels above 5 ppb and up to 10 ppb are present in  
11 your drinking water. While your drinking water meets the  
12 current EPA standard for arsenic, it does contain low levels  
13 of arsenic. The standard balances the current understanding  
14 of arsenic’s possible health effects against the costs of  
15 removing arsenic from drinking water. The State Department  
16 of Public Health continues to research the health effects of  
17 low levels of arsenic, which is a mineral known to cause cancer  
18 in humans at high concentrations and is linked to other health  
19 effects, including, but not limited to, skin damage and  
20 circulatory problems.”

21 (B) If the arsenic disclosure requirements for municipal water  
22 suppliers are revised by the State Department of Public Health,  
23 this statement shall be updated to reflect the revision.

24 (13) A full disclosure of any exemption or variance that ~~have~~  
25 *has* been granted to the bottler by the State Department of Public  
26 Health, including an explanation of reasons for each exemption  
27 or variance and the date of the exemption or variance.

28 SEC. 157. Section 116033 of the Health and Safety Code is  
29 amended to read:

30 116033. Persons providing aquatic instruction, including, but  
31 not limited to, swimming instruction, water safety instruction,  
32 water contact activities, and competitive aquatic sports, at a public  
33 swimming pool shall possess current certificates from an American  
34 Red Cross or YMCA of the U.S.A. lifeguard training program, or  
35 have equivalent qualifications, as determined by the department.  
36 In addition, these persons shall be certified in standard first aid  
37 and cardiopulmonary resuscitation (CPR). ~~All of~~ these persons  
38 shall meet these qualifications by January 1, 1991. Persons who  
39 only disseminate written materials relating to water safety; are not

1 persons providing aquatic instruction within the meaning of this  
2 section.

3 The requirements of this section shall be waived under either of  
4 the following circumstances: (a) when one or more aquatic  
5 instructors possessing the current certificates from an American  
6 Red Cross or YMCA of the U.S.A. lifeguard training program, or  
7 the equivalent, are in attendance continuously during periods of  
8 aquatic instruction, or (b) when one or more lifeguards meeting  
9 the requirements of Section 116028 are in attendance continuously  
10 during periods of aquatic instruction.

11 SEC. 158. Section 121530 of the Health and Safety Code is  
12 amended to read:

13 121530. The examination shall consist of either an approved  
14 intradermal-~~tuberculosis~~ *tuberculin* test or any other test for  
15 tuberculosis infection that has been recommended by the CDC  
16 and licensed by the FDA, that, if positive, shall be followed by an  
17 X-ray of the lungs.

18 SEC. 159. Section 122354 of the Health and Safety Code is  
19 amended to read:

20 122354. (a) The pet store operator or at least one of his or her  
21 employees shall be present in the store at least once daily,  
22 regardless of whether the store is open, for care and maintenance  
23 of the animals in the pet store.

24 (b) A pet store operator shall comply with the following animal  
25 care requirements:

26 (1) House only compatible animals in the same enclosure.

27 (2) Observe each animal at regular intervals, at least once a day,  
28 in order to recognize and evaluate general symptoms of sickness,  
29 injury, or abnormal behavior.

30 (3) Take reasonable measures to house intact mammals that  
31 have reached sexual maturity in a manner to prevent unplanned  
32 reproduction.

33 (4) (A) Maintain and abide by written animal husbandry  
34 procedures that address animal care, management and safe  
35 handling, disease prevention and control, routine care, ~~preventative~~  
36 *preventive* care, emergency care, veterinary treatment, euthanasia,  
37 and disaster planning, evacuation, and recovery that is applicable  
38 to the location of the pet store. These procedures shall be reviewed  
39 with employees who provide animal care and shall be present in

1 writing, either electronically or physically, in the store and made  
2 available to all store employees.

3 (B) Sections 122356 and 122358 do not apply to subparagraph  
4 (A) ~~where there are~~ *if* other local, state, or federal laws ~~that~~ apply  
5 to those procedures.

6 (5) (A) If there is a determination that an animal may need to  
7 be euthanized, ensure that veterinary treatment is provided without  
8 delay.

9 (B) Notwithstanding subparagraph (A), an animal intended as  
10 food for another animal may be destroyed using a method or  
11 methods of euthanasia that are humane, involve painless loss of  
12 consciousness and immediate death as specified in Appendix 2 of  
13 the American Veterinary Medical Association (AVMA) 2000  
14 Report of the AVMA Panel on Euthanasia, and as authorized for  
15 the species in the documented program prescribed in paragraph  
16 (7).

17 (C) Each employee who performs euthanasia shall receive  
18 adequate training in the method or methods used and proof of  
19 successful completion of ~~such~~ *that* training shall be documented  
20 in writing and retained by the pet store. All training records shall  
21 be maintained by the pet store for two years, and shall be made  
22 available, upon request, to appropriate law enforcement officers  
23 exercising authority pursuant to Section 122356.

24 (D) Subparagraphs (A) to (C), inclusive, shall be implemented  
25 in a manner consistent with California law and in accordance with  
26 Chapter 11 (commencing with Section 4800) of Division 2 of the  
27 Business and Professions Code.

28 (6) Isolate and not offer for sale those animals that have or are  
29 suspected of having a contagious condition. This paragraph shall  
30 not apply to those animals that are effectively isolated by their  
31 primary enclosure, including, but not limited to, fish, provided that  
32 a sign is posted on the enclosure that indicates that these animals  
33 are not for sale, or otherwise marked in a manner to prevent their  
34 sale to customers during their treatment for the contagious  
35 condition.

36 (7) Have a documented program of routine care, ~~preventative~~  
37 *preventive* care, and emergency care, disease control and  
38 prevention, veterinary treatment and euthanasia, as outlined in  
39 paragraph (5), that is established and maintained by the pet store  
40 in consultation with a licensed veterinarian employed by the pet



1 store or a California-licensed veterinarian, to ensure adherence to  
2 the program with respect to each animal. The program shall also  
3 include a documented onsite visit to the pet store premises by a  
4 California-licensed veterinarian at least once a year.

5 (8) Ensure that each diseased, ill, or injured animal is evaluated  
6 and treated without delay. If necessary for the humane care and  
7 treatment of the animal, the animal shall be provided with  
8 veterinary treatment without delay.

9 (9) In the event of a natural disaster, an emergency evacuation,  
10 or other similar occurrence, the humane care and treatment of each  
11 animal is provided for, as required by this chapter, to the extent  
12 access to the animal is reasonably available.

13 (c) Subdivisions (a) and (b) shall be implemented to the extent  
14 consistent with California law.

15 SEC. 160. Section 124900 of the Health and Safety Code is  
16 amended to read:

17 124900. (a) (1) The State Department of Health Care Services  
18 shall select primary care clinics that are licensed under  
19 *subparagraph (A) or (B) of paragraph (1)-or-(2) of subdivision (a)*  
20 *of Section 1204, or are exempt from licensure under subdivision*  
21 *(c) of Section 1206, to be reimbursed for delivering medical*  
22 *services, including preventive health care, and smoking prevention*  
23 *and cessation health education, to program beneficiaries.*

24 (2) In order to be eligible to receive funds under this article a  
25 clinic shall meet all of the following conditions, at a minimum:

26 (A) Provide medical diagnosis and treatment.

27 (B) Provide medical support services of patients in all stages of  
28 illness.

29 (C) Provide communication of information about diagnosis,  
30 treatment, prevention, and prognosis.

31 (D) Provide maintenance of patients with chronic illness.

32 (E) Provide prevention of disability and disease through  
33 detection, education, persuasion, and preventive treatment.

34 (F) Meet one or both of the following conditions:

35 (i) ~~Are~~ *Be* located in an area or a facility federally designated  
36 as a health professional shortage area, medically underserved area,  
37 or medically underserved population.

38 (ii) ~~Are clinics~~ *Be a clinic* that ~~are~~ *is* able to demonstrate that  
39 at least 50 percent of the patients served are persons with incomes  
40 at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations ~~which~~ *that* have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) ~~Each~~ A primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year, or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, “uncompensated care” means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3) The department shall allocate available funds, for a three-year period, as follows:

1 (A) Clinics that received funding in the prior fiscal year shall  
2 receive 90 percent of their prior fiscal year allocation, subject to  
3 available funds, provided that the funding award is substantiated  
4 by the clinics' reported levels of uncompensated care.

5 (B) The remaining funds beyond 90 percent shall be awarded  
6 to new and existing applicants based on the clinics' reported levels  
7 of uncompensated care as verified by the department according to  
8 subparagraph ~~(B)~~ (A) of paragraph (4). The department shall seek  
9 input from stakeholders to discuss ~~any~~ adjustments to award levels  
10 that the department deems reasonable, such as including base  
11 amounts for new applicant clinics.

12 (C) New applicants shall be awarded funds pursuant to this  
13 subdivision if they meet the minimum requirements for funding  
14 under this article based on the clinics' reported levels of  
15 uncompensated care as verified by the department according to  
16 subparagraph (A) of paragraph (4). New applicants include  
17 applicants for ~~any~~ new site expansions by existing applicants.

18 (4) In assessing reported levels of uncompensated care, the  
19 department shall utilize the data available from the Office of  
20 Statewide Health Planning and Development's ~~(OSHDP)~~  
21 (*OSHDP's*) completed analysis of the "Annual Report of Primary  
22 Care Clinics" for the prior fiscal year, or if more recent data is  
23 available, then the most recent data. If this data is unavailable for  
24 an existing applicant to assess reported levels of uncompensated  
25 care, the existing applicant shall receive an allocation pursuant to  
26 subparagraph (A) of paragraph (3).

27 (A) The department shall utilize the most recent data available  
28 from OSHPD's completed analysis of the "Annual Report of  
29 Primary Care Clinics" for the prior fiscal year, or if more recent  
30 data is available, then the most recent data.

31 (B) If the funds allocated to the program are less than the prior  
32 year, the department shall allocate available funds to existing  
33 program providers only.

34 (5) The department shall establish a base funding level, subject  
35 to available funds, of no less than thirty-five thousand dollars  
36 (\$35,000) for frontier clinics and Native American  
37 reservation-based clinics. For purposes of this article, "frontier  
38 clinics" means clinics located in a medical services study area with  
39 a population of fewer than 11 persons per square mile.

1 (6) The department shall develop, in consultation with clinics  
2 funded pursuant to this article, a formula for reallocation of unused  
3 funds to other participating clinics to reimburse for uncompensated  
4 care. The department shall allocate the unused funds remaining  
5 on October 30, for the prior fiscal year to other participating clinics  
6 to reimburse for uncompensated care.

7 (e) In applying for funds, eligible clinics shall submit a single  
8 application per clinic corporation. Applicants with multiple sites  
9 shall apply for all eligible clinics, and shall report to the department  
10 the allocation of funds among their corporate sites in the prior  
11 year. A corporation may ~~only~~ claim reimbursement *only* for  
12 services provided at a program-eligible clinic site identified in the  
13 corporate entity's application for funds, and approved for funding  
14 by the department. A corporation may increase or decrease the  
15 number of its program-eligible clinic sites on an annual basis, at  
16 the time of the annual application update for the subsequent fiscal  
17 years of any multiple-year application period.

18 (f) Grant allocations pursuant to this article shall be based on  
19 the formula developed by the department, notwithstanding a merger  
20 of one of more licensed primary care clinics participating in the  
21 program.

22 (g) A clinic that is eligible for the program in every other  
23 respect, but that provides dental services only, rather than the full  
24 range of primary care medical services, shall only be eligible to  
25 receive funds under this article on an exception basis. A dental-only  
26 provider's application shall include a memorandum of  
27 understanding (MOU) with a primary care clinic funded under this  
28 article. The MOU shall include medical protocols for making  
29 referrals by the primary care clinic to the dental clinic and from  
30 the dental clinic to the primary care clinic, and ensure that case  
31 management services are provided and that the patient is being  
32 provided comprehensive primary care as ~~defined~~ *described* in  
33 subdivision (a).

34 (h) (1) For purposes of this article, an outpatient visit shall  
35 include diagnosis and medical treatment services, including the  
36 associated pharmacy, X-ray, and laboratory services, and  
37 prevention health and case management services that are needed  
38 as a result of the outpatient visit. For a new patient, an outpatient  
39 visit shall also include a health assessment encompassing an  
40 assessment of smoking behavior and the patient's need for

appropriate health education specific to related tobacco use and exposure.

(2) “Case management” includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents (\$71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider’s appeal rights. ~~Each~~ A primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 161. Section 124991 of the Health and Safety Code is amended to read:

124991. (a) (1) The State Department of Public Health shall provide any umbilical cord blood samples it receives pursuant to Section 123371 to the Birth Defects Monitoring Program, *established pursuant to Chapter 1 (commencing with Section 103825) of Part 2 of Division 102*, for storage and research. In administering this section the department shall ensure that the Birth

1 Defects Monitoring Program meets at least one of the following  
2 conditions:

3 (A) The fees paid by researchers, investigators, and health care  
4 services providers pursuant to subdivision (c) shall be used to cover  
5 the cost of collecting and storing blood, including umbilical cord  
6 blood.

7 (B) The department receives confirmation that an investigator,  
8 researcher, or health care provider has requested umbilical cord  
9 blood samples for research or has requested cord blood samples  
10 to be included within a request for pregnancy and newborn blood  
11 samples through the program.

12 (C) The department receives federal grant moneys to pay for  
13 initial startup costs for the collection and storage of umbilical cord  
14 blood samples.

15 (2) The department may limit the number of units the program  
16 collects each year.

17 (b) (1) All information relating to umbilical cord blood samples  
18 collected and utilized by the Birth Defects Monitoring Program  
19 shall be confidential, and shall be used solely for the purposes of  
20 the program. Access to confidential information shall be limited  
21 to authorized persons who agree, in writing, to maintain the  
22 confidentiality of that information.

23 (2) The department shall maintain an accurate record of all  
24 persons who are given confidential information pursuant to this  
25 section, and ~~any~~ disclosure of confidential information shall be  
26 made only upon written agreement that the information will be  
27 kept confidential, used for its approved purpose, and not be further  
28 disclosed.

29 (3) ~~Any~~ A person who, in violation of a written agreement to  
30 maintain confidentiality, discloses ~~any~~ information provided  
31 pursuant to this section, or who uses information provided pursuant  
32 to this section in a manner other than as approved pursuant to this  
33 section may be denied further access to ~~any~~ confidential  
34 information maintained by the department, and shall be subject to  
35 a civil penalty not exceeding one thousand dollars (\$1,000). The  
36 penalty provided in this section ~~shall not be construed as to~~ *does*  
37 *not* limit or otherwise restrict ~~any~~ a remedy, provisional or  
38 otherwise, provided by law for the benefit of the department or  
39 ~~any other~~ a person covered by this section.

(c) In order to implement this program, the department shall establish fees of an amount that shall not exceed the costs of administering the program, which the department shall collect from researchers, *investigators*, and health care providers who have been approved by the department and who seek to use the following types of blood samples, collected by the Birth Defects Monitoring Program, for research:

- (1) Umbilical cord blood.
- (2) Pregnancy blood.
- (3) Newborn blood.

(d) Fees collected pursuant to subdivision (c) shall be deposited into the Birth Defects Monitoring Program Fund created pursuant to paragraph (7) of subdivision (b) of Section 124977. Moneys deposited into the fund pursuant to this section may be used by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (e).

(e) Moneys in the fund shall be used for the costs related to data management, including data linkage and entry, and umbilical cord blood storage, retrieval, processing, inventory, and shipping.

(f) The department shall adopt rules and regulations pursuant to existing requirements in the Birth Defects Monitoring Program; ~~as set forth in Chapter 1 (commencing with Section 103825) of Part 2 of Division 102.~~

(g) The department, health care providers, and local health departments shall maintain the confidentiality of patient information in accordance with existing law and in the same manner as other medical record information with patient identification that they possess, and shall use the information only for the following purposes:

- (1) Research to identify risk factors for children's and women's diseases.
- (2) Research to develop and evaluate screening tests.
- (3) Research to develop and evaluate prevention strategies.
- (4) Research to develop and evaluate treatments.

(h) (1) For purposes of ensuring the security of a donor's personal information, before any umbilical cord blood samples are released pursuant to this section for research purposes, the State Committee for the Protection of Human Subjects (CPHS) shall determine if all of the following criteria have been met:

1 (A) The Birth Defects Monitoring Program contractors or other  
2 entities approved by the department have provided a plan sufficient  
3 to protect personal information from improper use and disclosures,  
4 including sufficient administrative, physical, and technical  
5 safeguards to protect personal information from reasonable  
6 anticipated threats to the security or confidentiality of the  
7 information.

8 (B) The Birth Defects Monitoring Program contractors or other  
9 entities approved by the department have provided a sufficient  
10 plan to destroy or return all personal information as soon as it is  
11 no longer needed for the research activity, unless the program  
12 contractors or other entities approved by the department have  
13 demonstrated an ongoing need for the personal information for  
14 the research activity and have provided a long-term plan sufficient  
15 to protect the confidentiality of that information.

16 (C) The Birth Defects Monitoring Program contractors or other  
17 entities approved by the department have provided sufficient  
18 written assurances that the personal information will not be reused  
19 or disclosed to ~~any other~~ a person or entity, or used in ~~any~~ a manner  
20 not approved in the research protocol, except as required by law  
21 or for authorized oversight of the research activity.

22 (2) As part of its review and approval of the research activity  
23 for the purpose of protecting personal information held in agency  
24 databases, CPHS shall accomplish at least all of the following:

25 (A) Determine whether the requested personal information is  
26 needed to conduct the research.

27 (B) Permit access to personal information only if it is needed  
28 for the research activity.

29 (C) Permit access only to the minimum ~~necessary~~ personal  
30 information ~~needed~~ necessary for the research activity.

31 (D) Require the assignment of unique subject codes that are not  
32 derived from personal information in lieu of social security  
33 numbers if the research can ~~still~~ be conducted without social  
34 security numbers.

35 (E) If feasible, and if cost, time, and technical expertise permit,  
36 require the agency to conduct a portion of the data processing for  
37 the researcher to minimize the release of personal information.

38 (i) In addition to the fees described in subdivision (c), the  
39 department may bill a researcher for the costs associated with the  
40 department's process of protecting personal information, including,



1 but not limited to, the department's costs for conducting a portion  
2 of the data processing for the researcher, removing personal  
3 information, encrypting or otherwise securing personal information,  
4 or assigning subject codes.

5 (j) ~~Nothing in this section shall~~ *This section does not* prohibit  
6 the department from using its existing authority to enter into written  
7 agreements to enable other institutional review boards to approve  
8 research activities, projects, or classes of projects for the  
9 department, provided *that* the data security requirements set forth  
10 in this section are satisfied.

11 SEC. 162. Section 127400 of the Health and Safety Code is  
12 amended to read:

13 127400. As used in this article, the following terms have the  
14 following meanings:

15 (a) "Allowance for financially qualified patient" means, with  
16 respect to services rendered to a financially qualified patient, an  
17 allowance that is applied after the hospital's charges are imposed  
18 on the patient, due to the patient's determined financial inability  
19 to pay the charges.

20 (b) "Federal poverty level" means the poverty guidelines updated  
21 periodically in the Federal Register by the United States  
22 Department of Health and Human Services under authority of  
23 subsection (2) of Section 9902 of Title 42 of the United States  
24 Code.

25 (c) "Financially qualified patient" means a patient who is both  
26 of the following:

27 (1) A patient who is a self-pay patient, as defined in subdivision  
28 (f) or a patient with high medical costs, as defined in subdivision  
29 (g).

30 (2) A patient who has a family income that does not exceed 350  
31 percent of the federal poverty level.

32 (d) "Hospital" means ~~any~~ a facility that is required to be licensed  
33 under subdivision (a), (b), or (f) of Section 1250, except a facility  
34 operated by the State Department of Mental Health or the  
35 Department of Corrections *and Rehabilitation*.

36 (e) "Office" means the Office of Statewide Health Planning and  
37 Development.

38 (f) "Self-pay patient" means a patient who does not have  
39 third-party coverage from a health insurer, health care service plan,  
40 Medicare, or Medicaid, and whose injury is not a compensable

1 injury for purposes of workers' compensation, automobile  
2 insurance, or other insurance as determined and documented by  
3 the hospital. Self-pay patients may include charity care patients.

4 (g) "A patient with high medical costs" means a person whose  
5 family income does not exceed 350 percent of the federal poverty  
6 level, as defined in subdivision-(e) (b), if that individual does not  
7 receive a discounted rate from the hospital as a result of his or her  
8 third-party coverage. For these purposes, "high medical costs"  
9 means any of the following:

10 (1) Annual out-of-pocket costs incurred by the individual at the  
11 hospital that exceed 10 percent of the patient's family income in  
12 the prior 12 months.

13 (2) Annual out-of-pocket expenses that exceed 10 percent of  
14 the patient's family income, if the patient provides documentation  
15 of the patient's medical expenses paid by the patient or the patient's  
16 family in the prior 12 months.

17 (3) A lower level determined by the hospital in accordance with  
18 the hospital's charity care policy.

19 (h) "Patient's family" means the following:

20 (1) For persons 18 years of age and older, spouse, domestic  
21 partner, as defined in Section 297 of the Family Code, and  
22 dependent children under 21 years of age, whether living at home  
23 or not.

24 (2) For persons under 18 years of age, parent, caretaker relatives,  
25 and other children under 21 years of age of the parent or caretaker  
26 relative.

27 SEC. 163. Section 127405 of the Health and Safety Code is  
28 amended to read:

29 127405. (a) (1) Each hospital shall maintain an understandable  
30 written policy regarding discount payments for financially qualified  
31 patients as well as an understandable written charity care policy.  
32 Uninsured patients or patients with high medical costs who are at  
33 or below 350 percent of the federal poverty level, as defined in  
34 subdivision-(e) (b) of Section 127400, shall be eligible to apply  
35 for participation under ~~each~~ a hospital's charity care policy or  
36 discount payment policy. Notwithstanding any other provision of  
37 this ~~act~~ article, a hospital may choose to grant eligibility for its  
38 discount payment policy or charity care policies to patients with  
39 incomes over 350 percent of the federal poverty level. Both the  
40 charity care policy and the discount payment policy shall state the

process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.

(2) Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 350 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.

(b) ~~Each~~A hospital's discount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan.

(c) The charity care policy shall ~~clearly~~ state *clearly the* eligibility criteria for charity care. In determining eligibility under its charity care policy, a hospital may consider income and monetary assets of the patient. For purposes of this determination, monetary assets shall not include retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. Furthermore, the first ten thousand dollars (\$10,000) of a patient's monetary assets shall not be counted in determining eligibility, nor shall 50 percent of a patient's monetary assets over the first ten thousand dollars (\$10,000) be counted in determining eligibility.

(d) ~~Each~~A hospital shall limit expected payment for services it provides to ~~any~~ a patient at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 124700, eligible under its discount payment policy to the amount of payment the hospital would expect, in good faith, to receive for providing services from Medicare, Medi-Cal, Healthy Families, or ~~any other~~ *another* government-sponsored health program of health benefits in which the hospital participates, whichever is greater. If the hospital provides a service for which there is no established payment by Medicare or any other government-sponsored program of health benefits in which the hospital participates, the hospital shall establish an appropriate discounted payment.

(e) ~~Any~~ A patient, or patient's legal representative, who requests a discounted payment, charity care, or other assistance in meeting ~~their~~ *his or her* financial obligation to the hospital shall make every reasonable effort to provide the hospital with documentation of income and health benefits coverage. If the person requests charity care or a discounted payment and fails to provide information that is reasonable and necessary for the hospital to make a determination, the hospital may consider that failure in making its determination.

(1) For the ~~purpose~~ *purposes* of determining eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns.

(2) For the ~~purpose~~ *purposes* of determining eligibility for charity care, documentation of assets may include information on all monetary assets, but shall not include statements on retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. A hospital may require waivers or releases from the patient or the patient's family, authorizing the hospital to obtain account information from financial or commercial institutions, or other entities that hold or maintain the monetary assets, to verify their value.

(3) Information obtained pursuant to paragraph (1) or (2) shall not be used for collections activities. ~~Nothing in this paragraph prohibits~~ *This paragraph does not prohibit* the use of information obtained by the hospital, collection agency, or assignee independently of the eligibility process for charity care or discounted payment.

(4) Eligibility for discounted payments or charity care may be determined at any time the hospital is in receipt of information specified in paragraph (1) or ~~paragraph~~ (2), respectively.

SEC. 164. Section 128735 of the Health and Safety Code is amended to read:

128735. ~~Every~~ *An* organization that operates, conducts, owns, or maintains a health facility, and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office that shall be in accord ~~where, if~~ *where, if* applicable, with the systems of accounting and uniform reporting required by this part, except *that* the reports required pursuant to subdivision (g) shall be limited to hospitals:

1 (a) A balance sheet detailing the assets, liabilities, and net worth  
2 of the health facility at the end of its fiscal year.

3 (b) A statement of income, expenses, and operating surplus or  
4 deficit for the annual fiscal period, and a statement of ancillary  
5 utilization and patient census.

6 (c) A statement detailing patient revenue by payer, including,  
7 but not limited to, Medicare, Medi-Cal, and other payers, and  
8 revenue center, except that hospitals authorized to report as a group  
9 pursuant to subdivision (d) of Section 128760 are not required to  
10 report revenue by revenue center.

11 (d) A statement of ~~cash-flows~~ *cashflows*, including, but not  
12 limited to, ongoing and new capital expenditures and depreciation.

13 (e) A statement reporting the information required in  
14 subdivisions (a), (b), (c), and (d) for each separately licensed health  
15 facility operated, conducted, or maintained by the reporting  
16 organization, except those hospitals authorized to report as a group  
17 pursuant to subdivision (d) of Section 128760.

18 (f) Data reporting requirements established by the office shall  
19 be consistent with national standards, as applicable.

20 (g) A Hospital Discharge Abstract Data Record that includes  
21 all of the following:

22 (1) Date of birth.

23 (2) Sex.

24 (3) Race.

25 (4) ZIP Code.

26 (5) Principal language spoken.

27 (6) Patient social security number, if it is contained in the  
28 patient's medical record.

29 (7) Prehospital care and resuscitation, if any, including all of  
30 the following:

31 (A) "Do not resuscitate" (DNR) order at admission.

32 (B) "Do not resuscitate" (DNR) order after admission.

33 (8) Admission date.

34 (9) Source of admission.

35 (10) Type of admission.

36 (11) Discharge date.

37 (12) Principal diagnosis and whether the condition was present  
38 at admission.

39 (13) Other diagnoses and whether the conditions were present  
40 at admission.

- 1 (14) External cause of injury.
- 2 (15) Principal procedure and date.
- 3 (16) Other procedures and dates.
- 4 (17) Total charges.
- 5 (18) Disposition of patient.
- 6 (19) Expected source of payment.
- 7 (20) Elements added pursuant to Section 128738.

8 (h) It is the ~~expressed~~ intent of the Legislature that the patient's  
9 rights of confidentiality shall not be violated in any manner. Patient  
10 social security numbers and ~~any~~ other data elements that the office  
11 believes could be used to determine the identity of an individual  
12 patient shall be exempt from the disclosure requirements of the  
13 California Public Records Act (Chapter 3.5 (commencing with  
14 Section 6250) of Division 7 of Title 1 of the Government Code).

15 (i) ~~No~~ A person reporting data pursuant to this section shall *not*  
16 be liable for damages in ~~any~~ *an* action based on the use or misuse  
17 of patient-identifiable data that has been mailed or otherwise  
18 transmitted to the office pursuant to the requirements of subdivision  
19 (g).

20 (j) A hospital shall use coding from the International  
21 Classification of Diseases in reporting diagnoses and procedures.

22 SEC. 165. Section 131540 of the Health and Safety Code is  
23 amended to read:

24 131540. (a) (1) The cost of the health care coverage provided  
25 through the program shall be paid through a combination of  
26 contributions paid by the small business, premiums paid by  
27 participating employees, and ~~any~~ county, federal, state, or private  
28 sector funding made available for this purpose.

29 (2) The local initiative may determine the amount of the  
30 employer contribution for each participating eligible employee,  
31 which shall not exceed one hundred fifty dollars (\$150) per month,  
32 and the amount of the employee premium, which shall not exceed  
33 seventy-five dollars (\$75) per month. The local initiative may  
34 adjust employer contribution and employee premium levels after  
35 the first year if necessary for changes in health care costs.

36 (3) The local initiative may structure the required employee  
37 premium amounts according to a schedule that takes into account  
38 the individual employee's age or income level, or both, in a manner  
39 similar, but not necessarily identical, to that described in Section

1 12693.43 of the Insurance Code, pertaining to the Healthy Families  
2 Program.

3 (4) The local initiative shall establish copayment levels and  
4 amounts in a manner substantially similar to that described in  
5 Section 12693.615 of the Insurance Code, pertaining to the Healthy  
6 Families Program.

7 (5) For purposes of the program, ~~the term~~ “applicable rate  
8 charged for a covered employee” in Section 1366.26 ~~shall mean~~  
9 *means* the total premium amount paid to the health plan on behalf  
10 of an employee, including amounts paid by the small business on  
11 behalf of the employee, the premium paid by the employee, and  
12 any county, federal, state, or private sector funding, which funding  
13 shall include the value of the discounted rates negotiated pursuant  
14 to subdivision (b), as apportioned to the employee. The program  
15 shall submit to the Department of Managed Health Care the  
16 procedures the local initiative will use for purposes of establishing  
17 the rates to be paid by a person eligible for continuation coverage  
18 under Section 1366.26, and the department shall only approve  
19 those *procedures* if it determines that they are consistent with the  
20 requirements of the Cal-COBRA program.

21 (b) In order to enhance the affordability of coverage offered  
22 through the program to eligible small businesses and employees,  
23 the county and the local initiative shall negotiate discounted rates  
24 for services provided to participants in the program by providers  
25 operated by the county or by providers with whom, or with which,  
26 the county has contracted to provide health care services.

27 SEC. 166. Section 739.3 of the Insurance Code is amended to  
28 read:

29 739.3. (a) “Company Action Level Event” means any of the  
30 following events:

31 (1) The filing of an RBC Report by an insurer that indicates any  
32 of the following:

33 (A) The insurer’s Total Adjusted Capital is greater than or equal  
34 to its Regulatory Action Level RBC but less than its Company  
35 Action Level RBC.

36 (B) If a life or health insurer, the insurer has Total Adjusted  
37 Capital that is greater than or equal to its Company Action Level  
38 RBC but less than the product of its Authorized Control Level  
39 RBC and 2.5, and has a negative trend.

1 (C) If a property and casualty insurer, the insurer has Total  
2 Adjusted Capital ~~which~~ *that* is greater than or equal to its Company  
3 Action Level RBC but less than the product of its Authorized  
4 Control Level RBC and 3.0, and triggers the trend test determined  
5 in accordance with the trend test calculation included in the  
6 Property and Casualty RBC instructions.

7 (2) The notification by the commissioner to the insurer of an  
8 Adjusted RBC Report that indicates the event in subparagraph (A)  
9 or (B) of paragraph (1), provided *that* the insurer does not challenge  
10 the Adjusted RBC Report under Section 739.7.

11 (3) If the insurer challenges an Adjusted RBC Report that  
12 indicates the event in subparagraph (A) or (B) of paragraph (1)  
13 under Section 739.7, the notification by the commissioner to the  
14 insurer that the commissioner has, after a hearing, rejected the  
15 insurer's challenge.

16 (b) In the event of a Company Action Level Event, the insurer  
17 shall prepare and submit to the commissioner a comprehensive  
18 financial plan, which shall do all of the following:

19 (1) Identify the conditions in the insurer that contribute to the  
20 Company Action Level Event.

21 (2) Contain proposals of corrective actions that the insurer  
22 intends to take and would be expected to result in the elimination  
23 of the Company Action Level Event.

24 (3) Provide projections of the insurer's financial results in the  
25 current year and at least the four succeeding years, both in the  
26 absence of proposed corrective actions and giving effect to the  
27 proposed corrective actions, including projections of statutory  
28 operating income, net income, capital, or surplus, or a combination.  
29 The projections for both new and renewal business may include  
30 separate projections for each major line of business and separately  
31 identify each significant income, expense, and benefit component.

32 (4) Identify the key assumptions impacting the insurer's  
33 projections and the sensitivity of the projections to the assumptions.

34 (5) Identify the quality of, and problems associated with, the  
35 insurer's business, including, but not limited to, its assets,  
36 anticipated business growth and associated surplus strain,  
37 extraordinary exposure to risk, mix of business, and use of  
38 reinsurance in each case, if any.

39 (c) The RBC Plan shall be submitted as follows:

40 (1) Within 45 days of the Company Action Level Event.



1 (2) If the insurer challenges an Adjusted RBC Report pursuant  
2 to Section 739.7, within 45 days after notification to the insurer  
3 that the commissioner has, after a hearing, rejected the insurer's  
4 challenge.

5 (d) Within 60 days after the submission by an insurer of an RBC  
6 Plan to the commissioner, the commissioner shall notify the insurer  
7 whether the RBC Plan shall be implemented or is, in the judgment  
8 of the commissioner, unsatisfactory. If the commissioner  
9 determines *that* the RBC Plan is unsatisfactory, the notification to  
10 the insurer shall set forth the reasons for the determination, and  
11 may set forth proposed revisions that will render the RBC Plan  
12 satisfactory, in the judgment of the commissioner. Upon  
13 notification from the commissioner, the insurer shall prepare a  
14 Revised RBC Plan, which may incorporate by reference ~~any~~  
15 revisions proposed by the commissioner, and shall submit the  
16 Revised RBC Plan to the commissioner as follows:

17 (1) Within 45 days after the notification from the commissioner.

18 (2) If the insurer challenges the notification from the  
19 commissioner under Section 739.7, within 45 days after a  
20 notification to the insurer that the commissioner has, after a  
21 hearing, rejected the insurer's challenge.

22 (e) In the event of a notification by the commissioner to an  
23 insurer that the insurer's RBC Plan or Revised RBC Plan is  
24 unsatisfactory, the commissioner may, ~~at the commissioner's~~ *his*  
25 *or her* discretion, subject to the insurer's right to a hearing under  
26 Section 739.7, specify in the notification that the notification  
27 constitutes a Regulatory Action Level Event.

28 (f) Every domestic insurer that files an RBC Plan or Revised  
29 RBC Plan with the commissioner shall file a copy of the RBC Plan  
30 or Revised RBC Plan with the insurance commissioner in any state  
31 in which the insurer is authorized to do business if *both of* the  
32 following apply:

33 (1) That state has an RBC provision substantially similar to  
34 subdivision (a) of Section 739.8.

35 (2) The insurance commissioner of that state has notified the  
36 insurer of its request for the filing in writing, in which case the  
37 insurer shall file a copy of the RBC Plan or Revised RBC Plan in  
38 that state no later than the later of:

39 (A) Fifteen days after the receipt of notice to file a copy of its  
40 RBC Plan or Revised RBC Plan with the state.

(B) The date on which the RBC Plan or Revised RBC Plan is filed under subdivision (c) of Section 739.7.

SEC. 167. 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 that satisfy all of the following requirements:~~

(A) *Imposed* by law and within the coverage of an insurance policy of the insolvent insurer; ~~(B) which.~~

(B) *Which* were unpaid by the insolvent insurer; ~~(C) which.~~

(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.~~

(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.~~

(E) *For* which the assets of the insolvent insurer are insufficient to discharge in full; ~~(F) in.~~

(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.~~

(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~~ *includes* the obligations assumed by an assuming insurer from a ceding insurer where the

1 assuming insurer subsequently becomes an insolvent insurer if, at  
2 the time of the insolvency of the assuming insurer, the ceding  
3 insurer is no longer admitted to transact business in this state. Both  
4 the assuming insurer and the ceding insurer shall have been  
5 member insurers at the time the assumption was made. “Covered  
6 claims” under this paragraph shall be required to satisfy the  
7 requirements of subparagraphs (A) to (G), inclusive, of paragraph  
8 (1), except for the requirement that the claims be against policies  
9 of the insolvent insurer. The association shall have a right to  
10 recover any deposit, bond, or other assets that may have been  
11 required to be posted by the ceding company to the extent of  
12 covered claim payments and shall be subrogated to any rights the  
13 policyholders may have against the ceding insurer.

14 (3) “Covered claims” does not include obligations arising from  
15 the following:

16 (A) Life, annuity, health, or disability insurance.

17 (B) Mortgage guaranty, financial guaranty, or other forms of  
18 insurance offering protection against investment risks.

19 (C) Fidelity or surety insurance including fidelity or surety  
20 bonds, or any other bonding obligations.

21 (D) Credit insurance.

22 (E) Title insurance.

23 (F) Ocean marine insurance or ocean marine coverage under  
24 any insurance policy including claims arising from the following:  
25 the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor  
26 Workers’ Compensation Act (33 U.S.C. Sec. 901 et seq.), or ~~any~~  
27 ~~other~~ *another* similar federal statutory enactment, or ~~any~~ *an*  
28 endorsement or policy affording protection and indemnity  
29 coverage.

30 (G) ~~Any~~ *A* claims servicing agreement or insurance policy  
31 providing retroactive insurance of a known loss or losses, except  
32 a special excess workers’ compensation policy issued pursuant to  
33 subdivision (c) of Section 3702.8 of the Labor Code that covers  
34 all or any part of workers’ compensation liabilities of an employer  
35 that is issued, or was previously issued, a certificate of consent to  
36 self-insure pursuant to subdivision (b) of Section 3700 of the Labor  
37 Code.

38 (4) “Covered claims” does not include ~~any~~ obligations of the  
39 insolvent insurer arising out of ~~any~~ reinsurance contracts, nor ~~any~~  
40 obligations incurred after the expiration date of the insurance policy

1 or after the insurance policy has been replaced by the insured or  
2 canceled at the insured's request, or after the insurance policy has  
3 been canceled by the association as provided in this chapter, or  
4 after the insurance policy has been canceled by the liquidator, nor  
5 ~~any~~ obligations to ~~any~~ a state or to the federal government.

6 (5) "Covered claims" does not include ~~any~~ obligations to  
7 insurers, insurance pools, or underwriting associations, nor their  
8 claims for contribution, indemnity, or subrogation, equitable or  
9 otherwise, except as otherwise provided in this chapter.

10 An insurer, insurance pool, or underwriting association ~~may~~  
11 *shall* not maintain, in its own name or in the name of its insured,  
12 ~~any~~ a claim or legal action against the insured of the insolvent  
13 insurer for contribution, indemnity or by way of subrogation,  
14 except insofar as, and to the extent only, that the claim exceeds  
15 the policy limits of the insolvent insurer's policy. In those claims  
16 or legal actions, the insured of the insolvent insurer is entitled to  
17 a credit or setoff in the amount of the policy limits of the insolvent  
18 insurer's policy, or in the amount of the limits remaining, where  
19 those limits have been diminished by the payment of other claims.

20 (6) "Covered claims," except in cases involving a claim for  
21 workers' compensation benefits or for unearned premiums, does  
22 not include ~~any~~ a claim in an amount of one hundred dollars (\$100)  
23 or less, nor that portion of ~~any~~ a claim that is in excess of any  
24 applicable limits provided in the insurance policy issued by the  
25 insolvent insurer.

26 (7) "Covered claims" does not include that portion of ~~any~~ a  
27 claim, other than a claim for workers' compensation benefits, that  
28 is in excess of five hundred thousand dollars (\$500,000).

29 (8) "Covered claims" does not include ~~any~~ an amount awarded  
30 as punitive or exemplary damages, nor ~~any~~ an amount awarded  
31 by the Workers' Compensation Appeals Board pursuant to Section  
32 5814 or 5814.5 *of the Labor Code* because payment of  
33 compensation was unreasonably delayed or refused by the insolvent  
34 insurer.

35 (9) "Covered claims" does not include (A) ~~any~~ a claim to the  
36 extent it is covered by any other insurance of a class covered by  
37 this article available to the claimant or insured nor (B) ~~any~~ a claim  
38 by ~~any~~ a person other than the original claimant under the insurance  
39 policy in his or her own name, his or her assignee as the person  
40 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~~ a 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~~ state.

(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~~ *per-claim* limit in paragraph (7) and any payments and expenses related thereto shall be allocated to category (c) of Section 1063.5, which is for claims other than workers’ compensation, homeowners, and automobile, as provided in ~~Section 1063.5~~ that section.

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

1 retention, and this paragraph does not apply to special excess  
2 workers' compensation insurance policies unless issued pursuant  
3 to authority granted in subdivision (c) of Section 3702.8 of the  
4 Labor Code, and as provided for in subparagraph (G) of paragraph  
5 (3) ~~of subdivision (e)~~. In addition, this paragraph does not apply  
6 to ~~any~~ a claims servicing agreement or insurance policy providing  
7 retroactive insurance of a known loss or losses as are excluded in  
8 subparagraph (G) of paragraph (3) ~~of subdivision (e)~~.

9 Each ~~permissibility~~ *permissibly* self-insured employer or group  
10 of self-insured employers, or the Self-Insurers' Security Fund,  
11 shall, to the extent required by the Labor Code, be responsible for  
12 paying, adjusting, and defending each claim arising under policies  
13 of insurance covered under this section, unless the benefits paid  
14 on a claim exceed the specific or aggregate retention, in which  
15 case:.

16 (A) If the benefits paid on the claim exceed the specific or  
17 aggregate retention, and the policy requires the insurer to defend  
18 and adjust the claim, the California Insurance Guarantee  
19 Association (CIGA) shall be solely responsible for adjusting and  
20 defending the claim, and shall make all payments due under the  
21 claim, subject to the limitations and exclusions of this article with  
22 regards to covered claims. As to each claim subject to this  
23 paragraph, notwithstanding any other provisions of ~~the Insurance~~  
24 ~~Code this code~~ or the Labor Code, and regardless of whether the  
25 amount paid by CIGA is adequate to discharge a claim obligation,  
26 neither the self-insured employer, group of employers, nor the  
27 Self-Insurers' Security Fund; shall have any obligation to pay  
28 benefits over and above the specific or aggregate retention, except  
29 as provided in subdivision (c).

30 (B) If the benefits paid on the claim exceed the specific or  
31 aggregate retention, and the policy does not require the insurer to  
32 defend and adjust the claim, the ~~permissibility~~ *permissibly*  
33 self-insured employer or group of self-insured employers, or the  
34 Self-Insurers' Security Fund, shall not have ~~any~~ further payment  
35 obligations with respect to the claim, but shall continue defending  
36 and adjusting the claim, and shall have the right, but not the  
37 obligation, in any proceeding to assert all applicable statutory  
38 limitations and exclusions as contained in this article with regard  
39 to the covered claim. CIGA shall have the right, but not the  
40 obligation, to intervene in any proceeding where the self-insured

1 employer, group of self-insured employers, or the Self-Insurers'  
2 Security Fund is defending any such claim and shall be permitted  
3 to raise the appropriate statutory limitations and exclusions as  
4 contained in this article with respect to covered claims. Regardless  
5 of whether the self-insured employer or group of employers, or  
6 the Self-Insurers' Security Fund, asserts the applicable statutory  
7 limitations and exclusions, or whether CIGA intervenes in any  
8 such proceeding, CIGA shall be solely responsible for paying all  
9 benefits due on the claim, subject to the exclusions and limitations  
10 of this article with respect to covered claims. As to each claim  
11 subject to this paragraph, notwithstanding any other provision of  
12 ~~the Insurance Code~~ *this code* or the Labor Code and regardless of  
13 whether the amount paid by CIGA is adequate to discharge a claim  
14 obligation, neither the self-insured employer, group of employers,  
15 nor the Self-Insurers' Security Fund, shall have any obligation to  
16 pay benefits over and above the specific or aggregate retention,  
17 except as provided in this subdivision.

18 (d) In the event that the benefits paid on the covered claim  
19 exceed the ~~per-claim~~ *per-claim* limit in paragraph (7) of subdivision  
20 (c), the responsibility for paying, adjusting, and defending the  
21 claim shall be returned to the permissibly self-insured employer  
22 or group of employers, or the Self-Insurers' Security Fund.

23 These provisions shall apply to all pending and future  
24 insolvencies. For purposes of this paragraph, a pending insolvency  
25 is one involving a company that is currently receiving benefits  
26 from the ~~guaranty~~ *guarantee* association.

27 (e) "Admitted to transact insurance in this state" means an  
28 insurer possessing a valid certificate of authority issued by the  
29 department.

30 (f) "Affiliate" means a person who directly or indirectly, through  
31 one or more intermediaries, controls, is controlled by, or is under  
32 common control with an insolvent insurer on December 31 of the  
33 year next preceding the date the insurer becomes an insolvent  
34 insurer.

35 (g) "Control" means the possession, direct or indirect, of the  
36 power to direct or cause the direction of the management and  
37 policies of a person, whether through the ownership of voting  
38 securities, by contract other than a commercial contract for goods  
39 or nonmanagement services, or otherwise, unless the power is the  
40 result of an official position with or corporate office held by the

1 person. Control is presumed to exist if ~~any~~ a person, directly or  
2 indirectly, owns, controls, holds with the power to vote, or holds  
3 proxies representing, 10 percent or more of the voting securities  
4 of ~~any other~~ another person. This presumption may be rebutted  
5 by showing that control does not in fact exist.

6 (h) “Claimant” means ~~any~~ an insured making a first party claim  
7 or ~~any~~ a person instituting a liability claim; provided that no person  
8 who is an affiliate of the insolvent insurer may be a claimant.

9 (i) “Ocean marine insurance” includes marine insurance as  
10 defined in Section 103, except for inland marine insurance, as well  
11 as any other form of insurance, regardless of the name, label, or  
12 marketing designation of the insurance policy, that insures against  
13 maritime perils or risks and other related perils or risks, which are  
14 usually insured against by traditional marine insurance, such as  
15 hull and machinery, marine builders’ risks, and marine protection  
16 and indemnity. Those perils and risks insured against include,  
17 without limitation, loss, damage, or expense or legal liability of  
18 the insured arising out of or incident to ownership, operation,  
19 chartering, maintenance, use, repair, or construction of ~~any~~ a vessel,  
20 craft, or instrumentality in use in ocean or inland waterways,  
21 including liability of the insured for personal injury, illness, or  
22 death for loss or damage to the property of the insured or another  
23 person.

24 (j) “Unearned premium” means that portion of a premium as  
25 calculated by the liquidator that had not been earned because of  
26 the cancellation of the insolvent insurer’s policy and is that  
27 premium remaining for the unexpired term of the insolvent  
28 insurer’s policy. “Unearned premium” does not include ~~any~~ an  
29 amount sought as return of a premium under ~~any~~ a policy providing  
30 retroactive insurance of a known loss or return of a premium under  
31 ~~any~~ a retrospectively rated policy or a policy subject to a contingent  
32 surcharge or ~~any~~ a policy in which the final determination of the  
33 premium cost is computed after expiration of the policy and is  
34 calculated on the basis of actual loss experience during the policy  
35 period.

36 SEC. 168. Section 1626 of the Insurance Code is amended to  
37 read:

38 1626. (a) A life licensee is a person authorized to act as a life  
39 agent. Licenses to act as a life agent under this chapter shall be of  
40 the following types:



1 (1) Life-only, which license shall entitle the licensee to transact  
2 insurance coverage on human lives, including benefits of  
3 endowment and annuities, and may include benefits in the event  
4 of death or dismemberment by accident and benefits for disability  
5 income.

6 (2) Accident and health, which license shall entitle the licensee  
7 to transact insurance coverage for sickness, bodily injury, or  
8 accidental death and may include benefits for disability income.

9 (b) ~~A~~*An* accident and health agent licensee *also* is ~~also~~  
10 authorized to transact 24-hour care coverage, as defined in Section  
11 1749.02, pursuant to ~~the requirements of~~ subdivision (d) of Section  
12 1749 or subdivision (d) of Section 1749.33.

13 SEC. 169. Section 1764.1 of the Insurance Code is amended  
14 to read:

15 1764.1. (a) (1) Every nonadmitted insurer, in the case of  
16 insurance to be purchased by a resident of this state pursuant to  
17 Section 1760, and surplus line broker, in the case of any insurance  
18 with a nonadmitted carrier to be transacted by the surplus line  
19 broker, shall be responsible to ensure that, at the time of accepting  
20 an application for ~~any~~ *an* insurance policy, other than a renewal  
21 of that policy, issued by a nonadmitted insurer, the signature of  
22 the applicant on the disclosure statement set forth in subdivision  
23 (b) is obtained. In fulfillment of this responsibility, the nonadmitted  
24 insurer and the surplus line broker may rely, if it is reasonable  
25 under all the circumstances to do so, on the disclosure statement  
26 received from ~~any~~ *a* licensee involved in the transaction as prima  
27 facie evidence that the disclosure statement and appropriate  
28 signature from the applicant have been obtained. The surplus line  
29 broker shall maintain a copy of the signed disclosure statement in  
30 his or her records for a period of at least five years. These records  
31 shall be made available to the commissioner and the insured upon  
32 request. This disclosure shall be signed by the applicant, and is  
33 not subject to any limited power of attorney agreement between  
34 the applicant and an agent or broker, or a surplus line broker. The  
35 disclosure statement shall be in boldface 16-point type on a  
36 freestanding document. In addition, every policy issued by a  
37 nonadmitted insurer and every certificate evidencing the placement  
38 of insurance shall contain, or have affixed to it by the insurer or  
39 surplus line broker, the disclosure statement set forth in subdivision  
40 (b) in boldface 16-point type on the front page of the policy.

1 (2) In ~~any a case where~~ *in which* the applicant has not received  
2 and completed the signed disclosure form required by this section,  
3 he or she may cancel the insurance so placed. The cancellation  
4 shall be on a pro rata basis as to premium, and the applicant shall  
5 be entitled to the return of any broker's fees charged for the  
6 placement.

7 (b) The following notice shall be provided to policyholders and  
8 applicants for insurance as provided by subdivision (a), and shall  
9 be printed in English and in the language principally used by the  
10 surplus line broker and nonadmitted insurer to advertise, solicit,  
11 or negotiate the sale and purchase of surplus line insurance. The  
12 surplus line broker and nonadmitted insurer shall use the  
13 appropriate bracketed language for application and issued policy  
14 disclosures:

15  
16 "NOTICE:

17  
18 1. THE INSURANCE POLICY THAT YOU [HAVE  
19 PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING  
20 ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE  
21 STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED  
22 "NONADMITTED" OR "SURPLUS LINE" INSURERS.

23 2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL  
24 SOLVENCY REGULATION AND ENFORCEMENT ~~WHICH~~  
25 ~~APPLIES THAT APPLY~~ TO CALIFORNIA LICENSED  
26 INSURERS.

27 3. THE INSURER DOES NOT PARTICIPATE IN ANY OF  
28 THE INSURANCE GUARANTEE FUNDS CREATED BY  
29 CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL  
30 NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF  
31 THE INSURER BECOMES INSOLVENT AND IS UNABLE  
32 TO MAKE PAYMENTS AS PROMISED.

33 4. CALIFORNIA MAINTAINS A LIST OF ELIGIBLE  
34 SURPLUS LINE INSURERS APPROVED BY THE  
35 INSURANCE COMMISSIONER. ASK YOUR AGENT OR  
36 BROKER IF THE INSURER IS ON THAT LIST, OR VIEW  
37 THAT LIST AT THE *INTERNET* WEB SITE OF THE  
38 CALIFORNIA DEPARTMENT OF INSURANCE:  
39 ~~WWW.INSURANCE.CA.GOV~~ *www.insurance.ca.gov*.

1 5. FOR ADDITIONAL INFORMATION ABOUT THE  
2 INSURER, YOU SHOULD ASK QUESTIONS OF YOUR  
3 INSURANCE AGENT, BROKER, OR “SURPLUS LINE”  
4 BROKER OR CONTACT THE CALIFORNIA DEPARTMENT  
5 OF INSURANCE, AT THE FOLLOWING TOLL-FREE  
6 TELEPHONE NUMBER: \_\_\_\_.

7 6. IF YOU, AS THE APPLICANT, REQUIRED THAT THE  
8 INSURANCE POLICY YOU HAVE PURCHASED BE BOUND  
9 IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE  
10 WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR  
11 BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE  
12 WITHIN TWO BUSINESS DAYS, AND YOU DID NOT  
13 RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR  
14 YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME  
15 EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS  
16 POLICY WITHIN FIVE DAYS OF RECEIVING THIS  
17 DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM  
18 WILL BE PRORATED AND ANY ~~BROKER~~ *BROKER'S* FEE  
19 CHARGED FOR THIS INSURANCE WILL BE RETURNED  
20 TO YOU.”

21  
22 (c) When a contract is issued to an industrial insured neither the  
23 nonadmitted insurer nor the surplus line broker is required to  
24 provide the notice required in this section except on the  
25 confirmation of insurance, the certificate of placement, or the  
26 policy, whichever is first provided to the insured, nor is the insurer  
27 or surplus line broker required to obtain the insured’s signature.  
28 The producer shall ensure that the notice affixed to the confirmation  
29 of insurance, certificate of placement, or the policy is provided to  
30 the insured. The producer shall insert the current toll-free telephone  
31 number of the Department of Insurance as provided in paragraph  
32 4 5 of the notice.

33 (1) An industrial insured is an insured:

34 (A) Which employs at least 25 employees on average during  
35 the prior 12 months; and

36 (B) Which has aggregate annual premiums for insurance for all  
37 risks other than workers’ compensation and health coverage  
38 totaling no less than twenty-five thousand dollars (\$25,000); or

39 (C) Which obtains insurance through the services of a full-time  
40 employee acting as an insurance manager or a continuously retained

1 insurance consultant. A “continuously retained insurance  
2 consultant” does not include: (i) ~~Any~~ *an* agent or broker through  
3 whom the insurance is being placed, (ii) ~~any~~ *a* subagent or  
4 subproducer involved in the transaction, or (iii) ~~any~~ *an* agent or  
5 broker ~~which~~ *that* is a business organization employing or  
6 contracting with ~~any~~ *a* person mentioned in clauses (i) and (ii).

7 (2) The surplus line broker shall be responsible to ensure that  
8 the applicant is an industrial insured. A surplus line broker who  
9 reasonably relies on information provided in good faith by the  
10 applicant, whether directly or through the producer, shall be  
11 deemed to be in compliance with this requirement.

12 (d) For purposes of compliance with the requirement of  
13 subdivision (a) that the signature of the applicant be obtained, the  
14 following shall apply:

15 (1) ~~Where~~ *If* the insurance transaction is not conducted at an  
16 in-person, face-to-face meeting, the applicant’s signature on the  
17 disclosure form may be transmitted by the applicant to the agent  
18 or broker via facsimile or comparable electronic transmittal.

19 (2) In the case of commercial lines coverage, or personal  
20 insurance coverage subject to Section 675 and any umbrella  
21 coverage associated therewith, where an applicant requires that  
22 insurance coverage be bound immediately, either because existing  
23 coverage will lapse within two business days of the time the  
24 insurance is bound or because the applicant is required to have  
25 coverage in place within two business days, and the applicant  
26 cannot meet in person with the agent or broker to sign the  
27 disclosure form, the agent or broker may obtain the signature of  
28 the applicant within five days of binding coverage, provided that  
29 the applicant may cancel the insurance so placed within five days  
30 of receiving the disclosure form from the agent or broker. The  
31 cancellation shall be on a pro rata basis, and the applicant shall be  
32 entitled to the rescission or return of any broker’s fees charged for  
33 the placement. When a policy is canceled, the broker shall inform  
34 the applicant that the ~~broker~~ *broker’s* fee must be returned and that  
35 the premium must be prorated.

36 (e) Notwithstanding subdivision (a), this section shall not apply  
37 to insurance issued or delivered in this state by a nonadmitted  
38 Mexican insurer by and through a surplus line broker affording  
39 coverage exclusively in the Republic of Mexico on property located

1 temporarily or permanently in, or operations conducted temporarily  
2 or permanently within, the Republic of Mexico.

3 SEC. 170. Section 1765 of the Insurance Code is amended to  
4 read:

5 1765. (a) A license under this chapter shall be applied for and  
6 renewed by the filing with the commissioner of a written  
7 application therefor, in accordance with ~~the provisions of~~ Section  
8 1652.

9 (b) Subject to subdivision (f) ~~of this section~~, the commissioner  
10 shall issue a license authorizing ~~any~~ *an* applicant who is trustworthy  
11 and competent to transact an insurance brokerage business in ~~such~~  
12 *a* manner ~~as to safeguard the interest of the insured, to act as a~~  
13 surplus line broker from the date of the license until the expiration  
14 date specified in Section 1630. In order to transact surplus line  
15 brokerage business, an individual ~~must~~ *shall* be licensed as a  
16 surplus line broker.

17 (c) An applicant for a surplus line broker's license ~~shall~~, as part  
18 of the application and a condition of the issuance of the license,  
19 *shall* file a bond to the people of the State of California in the sum  
20 of fifty thousand dollars (\$50,000), conditioned that the licensee  
21 will fully and faithfully comply with the requirements of this  
22 chapter, and all applicable provisions of this code. The bond shall  
23 be subject to ~~the provisions of~~ Sections 1662 and 1663. A surplus  
24 line broker bond is not required for an individual licensed as a  
25 surplus line broker who ~~only~~ transacts *only* on behalf of a licensed  
26 surplus line broker organization.

27 (d) The filing fee for a license to act as a surplus line broker  
28 shall be seven hundred dollars (\$700) every two years, or for any  
29 initial fractional license year. ~~Every~~ *An* applicant for a business  
30 entity license, as provided in subdivision (a) of Section 1765.2,  
31 shall provide the names of all persons who may exercise the power  
32 and perform the duties under the license. Whenever an organization  
33 licensed as a surplus line broker desires to change, remove, or add  
34 to the natural person or persons who are to transact insurance under  
35 authority of its license, it shall immediately file an application or  
36 notice with the commissioner for an endorsement changing its  
37 license accordingly, on a form prescribed by the commissioner.  
38 The fee for adding or removing from ~~any~~ *a* surplus line broker's  
39 license issued to an organization the name of ~~any~~ *a* natural person,  
40 named thereon, shall be twenty-four dollars (\$24). The

1 commissioner shall require that the qualifying examination  
2 provided by subdivision (a) of Section 1676 be taken by ~~any a~~  
3 natural person named by the organization to exercise its agency  
4 or brokerage powers who would be required to take and pass the  
5 qualifying examination. That natural person or persons and the  
6 organization are in all other respects subject to the provisions of  
7 this chapter and the insurance laws.

8 (e) ~~Such~~ The license shall be renewed in accordance with, and  
9 subject to, ~~the provisions of~~ Sections 1717, 1718, 1719, and 1720.

10 (f) The commissioner may deny, suspend, or revoke ~~any a~~  
11 license applied for or granted pursuant to this chapter on all or any  
12 one of the grounds and in accordance with the procedures provided  
13 in Article 6 (commencing with Section 1666) and Article 13  
14 (commencing with Section 1737) of Chapter 5, ~~whenever if~~ the  
15 commissioner finds that the applicant or licensee has committed  
16 a violation of ~~any a~~ provision of this code.

17 SEC. 171. Section 1872.8 of the Insurance Code is amended  
18 to read:

19 1872.8. (a) ~~Each~~ An insurer doing business in this state shall  
20 pay an annual special purpose assessment to be determined by the  
21 commissioner, but not to exceed one dollar (\$1) annually, for each  
22 vehicle insured under an insurance policy it issues in this state, in  
23 order to fund increased investigation and prosecution of fraudulent  
24 automobile insurance claims and economic automobile theft.  
25 Thirty-four percent of those funds received from ninety-five cents  
26 (\$0.95) of the special purpose assessment per insured vehicle shall  
27 be distributed to the Fraud Division for enhanced investigative  
28 efforts, 15 percent of that ninety-five cents (\$0.95) shall be  
29 deposited in the Motor Vehicle Account for appropriation to the  
30 Department of the California Highway Patrol for enhanced  
31 prevention and investigative efforts to deter economic automobile  
32 theft, and 51 percent of ~~the funds that~~ *ninety-five cents (\$0.95)*  
33 shall be distributed to district attorneys for purposes of  
34 investigation and prosecution of automobile insurance fraud cases,  
35 including fraud involving economic automobile theft.

36 (b) (1) The commissioner shall award funds to district attorneys  
37 according to population. The commissioner may alter this  
38 distribution formula as necessary to achieve the most effective  
39 distribution of funds. ~~Each~~ A local district attorney desiring a  
40 portion of those funds shall submit to the commissioner an

1 application detailing the proposed use of any moneys that may be  
2 provided. The application shall include a detailed accounting of  
3 assessment funds received and expended in prior years, including,  
4 at a minimum, all of the following:

5 (A) The amount of funds received and expended.

6 (B) The uses to which those funds were put, including payment  
7 of salaries and expenses, purchase of equipment and supplies, and  
8 other expenditures by type.

9 (C) ~~Results~~—*The results* achieved as a consequence of  
10 expenditures made, including the number of investigations, arrests,  
11 complaints filed, convictions, and the amounts originally claimed  
12 in cases prosecuted compared to payments actually made in those  
13 cases.

14 (D) Other relevant information as the commissioner may  
15 reasonably require.

16 ~~Any~~A district attorney who fails to submit an application by the  
17 deadline set by the commissioner shall be subject to loss of  
18 distribution of the moneys. The commissioner may consider  
19 recommendations and advice of the Fraud Division and the  
20 Commissioner of the California Highway Patrol in allocating  
21 moneys to local district attorneys. ~~Any~~ A district attorney that  
22 receives funds shall submit an annual report to the commissioner,  
23 which may be made public, as to the success of the program  
24 administered. The report shall provide information and statistics  
25 on the number of active investigations, arrests, indictments, and  
26 convictions. Both the application for moneys and the distribution  
27 of moneys shall be public documents. The commissioner shall  
28 conduct a fiscal audit of the programs administered under this  
29 subdivision at least once every three years. ~~The cost~~ *costs* of a  
30 fiscal audit shall be shared equally between the department and  
31 the district attorney. Information submitted to the commissioner  
32 pursuant to this section concerning criminal investigations, whether  
33 active or inactive, shall be confidential. If the commissioner  
34 determines that a district attorney is unable or unwilling to  
35 investigate and prosecute automobile insurance fraud claims as  
36 provided by this subdivision or Section 1874.8, the commissioner  
37 may discontinue the distribution of funds allocated for that county  
38 and may redistribute those funds to other eligible district attorneys.

39 (2) The Department of the California Highway Patrol shall  
40 submit to the commissioner, for informational purposes only, a

1 report detailing the department's proposed use of funds under this  
2 section and an annual report in the same format as required of  
3 district attorneys under paragraph (1).

4 (c) The remaining five cents (\$0.05) shall be spent for enhanced  
5 automobile insurance fraud investigation by the Fraud Division.

6 (d) Except for funds to be deposited in the Motor Vehicle  
7 Account for allocation to the Department of the California Highway  
8 Patrol for purposes of the Motor Vehicle Theft Prevention Act;  
9 (Chapter 5 (commencing with Section 10900) of Division 4 of the  
10 Vehicle Code), the funds received under this section shall be  
11 deposited in the Insurance Fund and be expended and distributed  
12 when appropriated by the Legislature.

13 (e) In the course of its investigations, the Fraud Division shall  
14 ~~aggressively~~ pursue *aggressively* all reported incidents of probable  
15 fraud and, in addition, shall forward to the appropriate disciplinary  
16 body the names of ~~any~~ individuals licensed under the Business  
17 and Professions Code who are suspected of actively engaging in  
18 fraudulent activity along with all relevant supporting evidence.

19 (f) As used in this section "economic automobile theft" means  
20 automobile theft perpetrated for financial gain, including, but not  
21 limited to, the following:

22 (1) Theft of a motor vehicle for financial gain.

23 (2) Reporting that a motor vehicle has been stolen for the  
24 purpose of filing a false insurance claim.

25 (3) Engaging in any act prohibited by Chapter 3.5 (commencing  
26 with Section 10801) of Division 4 of the Vehicle Code.

27 (4) Switching of vehicle identification numbers to obtain title  
28 to a stolen motor vehicle.

29 SEC. 172. Section 1872.81 of the Insurance Code is amended  
30 to read:

31 1872.81. In addition to the special purpose assessment imposed  
32 pursuant to Section 1872.8, ~~each~~ *an* insurer doing business in this  
33 state shall pay to the commissioner an annual special purpose  
34 assessment of thirty cents (\$0.30) for each vehicle insured under  
35 an insurance policy it issues in this state, for expenditure as follows:

36 (a) An amount equivalent to twenty cents (\$0.20) of the special  
37 purpose assessment imposed per insured vehicle by this section  
38 shall be used for the purpose of paying for consumer service  
39 functions of the department that are related to automobile  
40 insurance. The revenues under this subdivision shall be used to



1 improve service to consumers through the rating and underwriting  
2 services bureau, the claims services bureau, the investigations  
3 bureau, or any successor bureaus of the department that may  
4 assume the consumer service functions of these bureaus, and legal  
5 services in support of these bureaus. The department shall develop  
6 a plan for the use of the revenues available under this subdivision  
7 for the purposes authorized, and shall submit the plan to the  
8 Assembly and Senate Committees on Insurance.

9 (b) An amount equivalent to ten cents (\$0.10) of the special  
10 purpose assessment imposed per insured vehicle by this section  
11 shall be used for the purpose of improving consumer functions of  
12 the department related to automobile insurance. Revenues available  
13 under this subdivision shall be used to improve consumer functions  
14 through one or more of the following:

- 15 (1) The rating and underwriting services bureau.
- 16 (2) The claims services bureau.
- 17 (3) The investigations bureau.
- 18 (4) Any successor bureau of the department that may assume  
19 automobile insurance consumer functions of these bureaus, and  
20 legal services in support of these bureaus. These revenues *also*  
21 ~~may also~~ be used for improving the ability of the department to  
22 respond to consumer complaints and information requests through  
23 the department's toll-free telephone number, and for improving  
24 the ability of the department to offer information about automobile  
25 insurance rates to the public. The department shall develop a plan  
26 for the use of the revenues available under this subdivision for the  
27 purpose authorized, and shall submit the plan to the Assembly and  
28 Senate Committees on Insurance.

29 (c) Notwithstanding subdivision (b), the Department of  
30 Insurance, after January 1, 2006, and the Department of Motor  
31 Vehicles, after that date, may propose to the budget committees  
32 of the Legislature a proposed use of up to five cents (\$0.05) of the  
33 10-cent (\$0.10) special purpose assessment levied pursuant to  
34 subdivision (b) related to informing consumers about the existence  
35 of any ~~low-cost~~ *low-cost* automobile insurance program authorized  
36 in law pursuant to Section 11629.7 or other statutes that also  
37 establish a program of the type identified in Section 11629.7. ~~No~~  
38 ~~funds~~ *Funds* for this purpose ~~may~~ *shall not* be expended without  
39 prior budget approval. The total amount of funds authorized to  
40 both departments in total, or to one department in total, for this

1 purpose shall not exceed five cents (\$0.05). The departments shall  
2 explain, with as much specificity as is reasonably possible, the  
3 objectives for the use of the funds and quantitative criteria by  
4 which the Legislature may evaluate the effectiveness of the  
5 department's use of funds.

6 (d) At least five cents (\$0.05) of the 10-cent (\$0.10) special  
7 purpose assessment shall be directed to the purpose set forth in  
8 subdivision (a) until January 1, 2009, and to the degree that funding  
9 for ~~low-cost~~ *low-cost* auto insurance is not fully appropriated up  
10 to five cents (\$0.05), the difference thereof shall be additionally  
11 allocated to purposes set forth in subdivision (a).

12 (e) This section shall remain in effect only until January 1, 2010,  
13 and as of that date is repealed, unless a later enacted statute, that  
14 is enacted before January 1, 2010, deletes or extends that date.

15 SEC. 173. Section 1872.86 of the Insurance Code is amended  
16 to read:

17 1872.86. (a) ~~Each~~ *An* insurer doing business in this state shall  
18 pay an annual special purpose assessment to be determined by the  
19 commissioner, not to exceed five thousand one hundred dollars  
20 (\$5,100), to be used exclusively for the support of the Fraud  
21 Division. All moneys received by the commissioner from insurers  
22 pursuant to this section shall be transmitted to the Treasurer to be  
23 deposited in the State Treasury to the credit of the Insurance Fund.

24 (b) The Fraud Division shall report annually, on the department's  
25 *Internet* Web site, all of the following information:

26 (1) The number of suspected fraudulent claim referrals made  
27 to the Fraud Division pursuant to Section 1872.4, by line of  
28 insurance.

29 (2) The number of investigations opened by the Fraud Division,  
30 by line of insurance, at the local, state, and federal ~~level~~ *levels*.

31 (3) The number of investigations referred by the Fraud Division  
32 for criminal prosecution, by line of insurance, at the local, state,  
33 and federal ~~level~~ *levels*.

34 (4) The number of insurer fraud cases investigated by the  
35 department's Enforcement Branch.

36 (5) The number of criminal complaints filed by prosecutors at  
37 the local, state, and federal ~~level~~ *levels*.

38 (6) The number of convictions at the local, state, and federal  
39 ~~level~~ *levels*.

1 (7) The total amount of ~~court-ordered~~ *court-ordered* restitution,  
2 and the amount collected by the courts for the victims.

3 (8) The number of training presentations focusing on the current  
4 schemes and trends, investigative tools and techniques, and proper  
5 reporting requirements needed to increase the quality of suspected  
6 fraudulent referrals by insurance industry special investigation  
7 units.

8 (9) The number of vacant peace officer positions, including  
9 information on the number and rate of vacancies for which an  
10 employment commitment has been made and on the number and  
11 rate of vacancies required to meet budgeted salary savings  
12 requirements.

13 SEC. 174. Section 15031 of the Insurance Code is amended  
14 to read:

15 15031. ~~No~~ (a) A licensee shall *not* conduct a business under  
16 a fictitious or other business name unless and until he or she has  
17 obtained the written authorization of the commissioner to do so.

18 (b) The commissioner shall not authorize the use of a fictitious  
19 or other business name ~~which~~ *that* is so similar to that of a public  
20 officer or agency ~~of or~~ that used by another licensee that the public  
21 may be confused or ~~mislead~~ *misled* thereby.

22 (c) The authorization shall require, as a condition precedent to  
23 the use of ~~any~~ *a* fictitious name, that the licensee comply with  
24 Section 1724.5 of this code and Chapter 5 (commencing with  
25 Section 17900) of Part 3 of Division 7 of the Business and  
26 Professions Code.

27 (d) A licensee desiring to conduct his or her business under  
28 more than one fictitious name shall obtain the authorization of the  
29 commissioner in a manner prescribed in this section for the use of  
30 ~~such name~~ *additional fictitious names*.

31 (e) The licensee shall pay a fee of ten dollars (\$10) for each  
32 authorization to use an additional fictitious name and for each  
33 change in the use of a fictitious business name. If the original  
34 license is issued in a nonfictitious name and authorization is  
35 requested to have the license reissued in a fictitious business name,  
36 the licensee shall pay a fee of ten dollars (\$10) for that  
37 authorization.

38 SEC. 175. Section 77.7 of the Labor Code is amended to read:

39 77.7. (a) A study shall be undertaken to examine the causes  
40 of the number of insolvencies among workers' compensation

1 insurers within the past 10 years. The study shall be conducted by  
2 an independent research organization under the direction of the  
3 commission. Not later than July 1, 2009, the commission and the  
4 department shall publish the report of the study on ~~it's~~ *its* Internet  
5 Web site and shall inform the Legislature and the Governor of the  
6 availability of the report.

7 (b) The study shall include an analysis of the following: the  
8 access to capital for workers' compensation insurance from all  
9 sources between 1993 and 2003; the availability, source, and risk  
10 assumed of reinsurers during this period; the use of deductible  
11 policies and their effect on solvency regulation; market activities  
12 by insurers and producers that affected market concentration;  
13 activities, including financial oversight of insurers, by insurance  
14 regulators and the National Association of Insurance  
15 Commissioners during this period; the quality of data reporting to  
16 the commissioner's designated statistical agent and the accuracy  
17 of recommendations provided by the commissioner's designated  
18 statistical agent during this period of time; and underwriting, claims  
19 adjusting, and reserving practices of insolvent insurers. The study  
20 shall also include a survey of reports of other state agencies  
21 analyzing the insurance market response to rising system costs  
22 within the applicable time period.

23 (c) Data reasonably required for the study shall be made  
24 available by the California Insurance Guarantee Association,  
25 Workers' Compensation Insurance Rating Bureau, third-party  
26 administrators for the insolvent insurers, whether prior to or after  
27 the insolvency, the State Compensation Insurance Fund, and the  
28 Department of Insurance. The commission shall also include a  
29 survey of reports by the commission and other state agencies  
30 analyzing the insurance market response to rising system costs  
31 within the applicable period of time.

32 (d) The cost of the study is not to exceed one million dollars  
33 (\$1,000,000). Confidential information identifiable to ~~any~~ *a* natural  
34 person or insurance company held by ~~any an~~ *an* agency ~~or~~,  
35 organization ~~or~~, association, or other person or entity shall be  
36 released to researchers upon satisfactory agreement to maintain  
37 confidentiality. Information or material that is not subject to  
38 subpoena from the agency ~~or~~, organization ~~or~~, association, or other  
39 person or entity shall not be subject to subpoena from the  
40 commission or the contracted research organization.

1 (e) The costs of the study shall be borne one-half by the  
2 commission from funds derived from the Workers' Compensation  
3 Administration Revolving Fund and one-half by insurers from  
4 assessments allocated to each insurer based on the insurer's  
5 proportionate share of the market as shown by the Market Share  
6 Report for Calendar Year 2006 published by the Department of  
7 Insurance.

8 (f) In order to protect individual company trade secrets, this  
9 study shall not lead to the disclosure of, either directly or indirectly,  
10 the business practices of ~~any~~ a company that provides data pursuant  
11 to this section. This prohibition shall not apply to insurance  
12 companies that have been ordered by a court of competent  
13 jurisdiction to be placed in liquidation under the supervision of a  
14 liquidator or other authority.

15 SEC. 176. Section 4604.5 of the Labor Code is amended to  
16 read:

17 4604.5. (a) Upon adoption by the administrative director of a  
18 medical treatment utilization schedule pursuant to Section 5307.27,  
19 the recommended guidelines set forth in the schedule shall be  
20 presumptively correct on the issue of extent and scope of medical  
21 treatment. The presumption is rebuttable and may be controverted  
22 by a preponderance of the scientific medical evidence establishing  
23 that a variance from the guidelines ~~is~~ reasonably *is* required to cure  
24 or relieve the injured worker from the effects of his or her injury.  
25 The presumption created is one affecting the burden of proof.

26 (b) The recommended guidelines set forth in the schedule  
27 adopted pursuant to subdivision (a) shall reflect practices that are  
28 evidence and scientifically based, nationally recognized, and peer  
29 reviewed. The guidelines shall be designed to assist providers by  
30 offering an analytical framework for the evaluation and treatment  
31 of injured workers, and shall constitute care in accordance with  
32 Section 4600 for all injured workers diagnosed with industrial  
33 conditions.

34 (c) Three months after the publication date of the updated  
35 American College of Occupational and Environmental Medicine's  
36 Occupational Medicine Practice Guidelines, and continuing until  
37 the effective date of a medical treatment utilization schedule,  
38 pursuant to Section 5307.27, the recommended guidelines set forth  
39 in the American College of Occupational and Environmental  
40 Medicine's Occupational Medicine Practice Guidelines shall be

1 presumptively correct on the issue of extent and scope of medical  
2 treatment, regardless of date of injury. The presumption is  
3 rebuttable and may be controverted by a preponderance of the  
4 evidence establishing that a variance from the guidelines—is  
5 reasonably *is* required to cure and relieve the employee from the  
6 effects of his or her injury, in accordance with Section 4600. The  
7 presumption created is one affecting the burden of proof.

8 (d) (1) Notwithstanding the medical treatment utilization  
9 schedule or the guidelines set forth in the American College of  
10 Occupational and Environmental Medicine's Occupational  
11 Medicine Practice Guidelines, for injuries occurring on and after  
12 January 1, 2004, an employee shall be entitled to no more than 24  
13 chiropractic, 24 occupational therapy, and 24 physical therapy  
14 visits per industrial injury.

15 (2) Paragraph (1) shall not apply when an employer authorizes,  
16 in writing, additional visits to a health care practitioner for physical  
17 medicine services.

18 (3) Paragraph (1) shall not apply to visits for postsurgical  
19 physical medicine and postsurgical rehabilitation services provided  
20 in compliance with a postsurgical treatment utilization schedule  
21 established by the administrative director pursuant to Section  
22 5307.27.

23 (e) For all injuries not covered by the American College of  
24 Occupational and Environmental Medicine's Occupational  
25 Medicine Practice Guidelines or *the* official utilization schedule  
26 after adoption pursuant to Section 5307.27, authorized treatment  
27 shall be in accordance with other ~~evidence-based~~ *evidence-based*  
28 medical treatment guidelines—~~generally that are~~ recognized  
29 *generally* by the national medical community and ~~that are~~  
30 scientifically based.

31 SEC. 177. Section 4658.5 of the Labor Code is amended to  
32 read:

33 4658.5. (a) Except as provided in Section 4658.6, if the injury  
34 causes permanent partial disability and the injured employee does  
35 not return to work for the employer within 60 days of the  
36 termination of temporary disability, the injured employee shall be  
37 eligible for a supplemental job displacement benefit in the form  
38 of a nontransferable voucher for education-related retraining or  
39 skill enhancement, or both, at state-approved or accredited schools,  
40 as follows:

1 (1) Up to four thousand dollars (\$4,000) for permanent partial  
2 disability awards of less than 15 percent.

3 (2) Up to six thousand dollars (\$6,000) for permanent partial  
4 disability awards between 15 and 25 percent.

5 (3) Up to eight thousand dollars (\$8,000) for permanent partial  
6 disability awards between 26 and 49 percent.

7 (4) Up to ten thousand dollars (\$10,000) for permanent partial  
8 disability awards between 50 and 99 percent.

9 (b) The voucher may be used for payment of tuition, fees, books,  
10 and other expenses required by the school for retraining or skill  
11 enhancement. No more than 10 percent of the voucher moneys  
12 may be used for vocational or ~~return-to-work~~ *return-to-work*  
13 counseling. The administrative director shall adopt regulations  
14 governing the form of payment, direct reimbursement to the injured  
15 employee upon presentation to the employer of appropriate  
16 documentation and receipts, and ~~any~~ other matters necessary to  
17 the proper administration of the supplemental job displacement  
18 benefit.

19 (c) Within 10 days of the last payment of temporary disability,  
20 the employer shall provide to the employee, in the form and manner  
21 prescribed by the administrative director, information that provides  
22 notice of rights under this section. This notice shall be sent by  
23 certified mail.

24 (d) This section shall apply to injuries occurring on or after  
25 January 1, 2004.

26 SEC. 178. Section 293 of the Penal Code is amended to read:

27 293. (a) ~~Any~~ *An* employee of a law enforcement agency who  
28 personally receives a report from ~~any~~ *a* person, alleging that the  
29 person making the report has been the victim of a sex offense,  
30 shall inform that person that his or her name will become a matter  
31 of public record unless he or she requests that it not become a  
32 matter of public record, pursuant to Section 6254 of the  
33 Government Code.

34 (b) ~~Any~~ *An* written report of an alleged sex offense shall indicate  
35 that the alleged victim has been properly informed pursuant to  
36 subdivision (a) and shall memorialize his or her response.

37 (c) ~~No~~ *A* law enforcement agency shall *not* disclose to ~~any~~ *a*  
38 person, except the prosecutor, parole officers of the Department  
39 of Corrections and Rehabilitation, hearing officers of the parole  
40 authority, probation officers of county probation departments, or

1 other persons or public agencies where authorized or required by  
2 law, the address of a person who alleges to be the victim of a sex  
3 offense.

4 (d) ~~No~~ A law enforcement agency shall *not* disclose to ~~any~~ a  
5 person, except the prosecutor, parole officers of the Department  
6 of Corrections and Rehabilitation, hearing officers of the parole  
7 authority, probation offices of county probation departments, or  
8 other persons or public agencies where authorized or required by  
9 law, the name of a person who alleges to be the victim of a sex  
10 offense, if that person has elected to exercise his or her right  
11 pursuant to this section and Section 6254 of the Government Code.

12 (e) For purposes of this section, sex offense means any crime  
13 listed in paragraph (2) of subdivision (f) of Section 6254 of the  
14 Government Code.

15 (f) Parole officers of the Department of Corrections and  
16 Rehabilitation ~~and~~, hearing officers of the parole authority, and  
17 probation officers of county probation departments; shall be entitled  
18 to receive information pursuant to subdivisions (c) and (d) only if  
19 the person to whom the information pertains alleges that he or she  
20 is the victim of a sex offense, the alleged perpetrator of which is  
21 a parolee who is alleged to have committed the sex offense while  
22 on parole, or in the case of a county probation officer, the person  
23 who is alleged to have committed the sex offense is a probationer  
24 or is under investigation by a county probation department pursuant  
25 to Section 1203.

26 SEC. 179. Section 398 of the Penal Code is amended to read:

27 398. (a) ~~Whenever~~ *If* a person owning or having custody or  
28 control of an animal; knows, or has reason to know, that the animal  
29 bit another person, he or she shall, as soon as is practicable, but  
30 no later than 48 hours thereafter, provide the other person with his  
31 or her name, address, telephone number, and the name and license  
32 tag number of the animal who bit the other person. If the person  
33 with custody or control of the animal at the time the bite occurs is  
34 a minor, he or she shall instead provide identification or contact  
35 information of an adult owner or responsible party. If the animal  
36 is required by law to be vaccinated against rabies, the person  
37 owning or having custody or control of the animal shall, within  
38 48 hours of the bite, provide the other person with information  
39 regarding the status of the animal's vaccinations. Violation of this



1 section is an infraction punishable by a fine of not more than one  
2 hundred dollars (\$100).

3 (b) For purposes of this section, it is necessary for the skin of  
4 the person *to* be broken or punctured by the animal for the contact  
5 to be classified as a bite.

6 SEC. 180. Section 903.2 of the Penal Code is amended to read:

7 903.2. The jury commissioner shall diligently inquire and  
8 inform himself *or herself* in respect to the qualifications of persons  
9 resident in his *or her* county who may be liable to be summoned  
10 for grand jury duty. He *or she* may require ~~any~~ a person to answer,  
11 under oath to be administered by him *or her*, all ~~such~~ questions as  
12 he *or she* may address to ~~such~~ that person, touching his *or her*  
13 name, age, residence, occupation, and qualifications as a grand  
14 juror, and also all questions as to similar matters concerning other  
15 persons of whose qualifications for grand jury duty he *or she* has  
16 knowledge.

17 The commissioner and his *or her* assistants, referred to in  
18 Sections 69895 and 69896 of the Government Code, shall have  
19 *the* power to administer oaths and shall be allowed actual traveling  
20 expenses incurred in the performance of their duties. ~~Such~~ Those  
21 traveling expenses shall be audited, allowed, and paid out of the  
22 general fund of the county.

23 SEC. 181. Section 1170 of the Penal Code, as amended by  
24 Section 1 of Chapter 740 of the Statutes of 2007, is amended to  
25 read:

26 1170. (a) (1) The Legislature finds and declares that the  
27 purpose of imprisonment for crime is punishment. This purpose  
28 is best served by terms proportionate to the seriousness of the  
29 offense with provision for uniformity in the sentences of offenders  
30 committing the same offense under similar circumstances. The  
31 Legislature further finds and declares that the elimination of  
32 disparity and the provision of uniformity of sentences can best be  
33 achieved by determinate sentences fixed by statute in proportion  
34 to the seriousness of the offense as determined by the Legislature  
35 to be imposed by the court with specified discretion.

36 (2) Notwithstanding paragraph (1), the Legislature further finds  
37 and declares that programs should be available for inmates,  
38 including, but not limited to, educational programs, that are  
39 designed to prepare nonviolent felony offenders for successful  
40 reentry into the community. The Legislature encourages the

1 development of policies and programs designed to educate and  
2 rehabilitate nonviolent felony offenders. In implementing this  
3 section, the Department of Corrections and Rehabilitation is  
4 encouraged to give priority enrollment in programs to promote  
5 successful return to the community to an inmate with a short  
6 remaining term of commitment and a release date that would allow  
7 him or her adequate time to complete the program.

8 (3) ~~In any~~ a case in which the punishment prescribed by statute  
9 for a person convicted of a public offense is a term of imprisonment  
10 in the state prison of any specification of three time periods, the  
11 court shall sentence the defendant to one of the terms of  
12 imprisonment specified unless the convicted person is given ~~any~~  
13 ~~other~~ *another* disposition provided by law, including a fine, jail,  
14 probation, or the suspension of imposition or execution of sentence  
15 or is sentenced pursuant to subdivision (b) of Section 1168 because  
16 he or she had committed his or her crime prior to July 1, 1977. In  
17 sentencing the convicted person, the court shall apply the  
18 sentencing rules of the Judicial Council. The court, unless it  
19 determines that there are circumstances in mitigation of the  
20 punishment prescribed, shall also impose any other term that it is  
21 required by law to impose as an additional term. ~~Nothing in this~~  
22 ~~article shall~~ *This article does not affect any* a provision of law that  
23 imposes the death penalty, that authorizes or restricts the granting  
24 of probation or suspending the execution or imposition of sentence,  
25 or expressly provides for imprisonment in the state prison for life.  
26 ~~In any~~ a case in which the amount of preimprisonment credit under  
27 Section 2900.5 or ~~any other~~ *another* provision of law is equal to  
28 or exceeds ~~any~~ a sentence imposed pursuant to this chapter, the  
29 entire sentence shall be deemed to have been served and the  
30 defendant shall not be actually delivered to the custody of the  
31 secretary. The court shall advise the defendant that he or she shall  
32 serve a period of parole and order the defendant to report to the  
33 parole office closest to the defendant's last legal residence, unless  
34 the in-custody credits equal the total sentence, including both  
35 confinement time and the period of parole. The sentence shall be  
36 deemed a separate prior prison term under Section 667.5, and a  
37 copy of the judgment and other necessary documentation shall be  
38 forwarded to the secretary.

39 (b) When a judgment of imprisonment is to be imposed and the  
40 statute specifies three possible terms, the choice of the appropriate

1 term shall rest within the sound discretion of the court. At least  
2 four days prior to the time set for imposition of judgment, either  
3 party or the victim, or the family of the victim if the victim is  
4 deceased, may submit a statement in aggravation or mitigation. In  
5 determining the appropriate term, the court may consider the record  
6 in the case, the probation officer's report, other reports including  
7 reports received pursuant to Section 1203.03 and statements in  
8 aggravation or mitigation submitted by the prosecution, the  
9 defendant, or the victim, or the family of the victim if the victim  
10 is deceased, and any further evidence introduced at the sentencing  
11 hearing. The court shall select the term ~~which~~ *that*, in the court's  
12 discretion, best serves the interests of justice. The court shall set  
13 forth on the record the reasons for imposing the term selected and  
14 the court ~~may~~ *shall* not impose an upper term by using the fact of  
15 ~~any~~ *an* enhancement upon which sentence is imposed under any  
16 provision of law. A term of imprisonment shall not be specified  
17 if imposition of sentence is suspended.

18 (c) The court shall state the reasons for its sentence choice on  
19 the record at the time of sentencing. The court *also* shall ~~also~~  
20 inform the defendant that as part of the sentence after expiration  
21 of the term he or she may be on parole for a period as provided in  
22 Section 3000.

23 (d) When a defendant subject to this section or subdivision (b)  
24 of Section 1168 has been sentenced to be imprisoned in the state  
25 prison and has been committed to the custody of the secretary, the  
26 court may, within 120 days of the date of commitment on its own  
27 motion, or at any time upon the recommendation of the secretary  
28 or the Board of Parole Hearings, recall the sentence and  
29 commitment previously ordered and resentence the defendant in  
30 the same manner as if he or she had not previously been sentenced,  
31 provided *that* the new sentence, if any, is no greater than the initial  
32 sentence. The resentence under this subdivision shall apply the  
33 sentencing rules of the Judicial Council ~~so as~~ to eliminate disparity  
34 of sentences and to promote uniformity of sentencing. Credit shall  
35 be given for time served.

36 (e) (1) Notwithstanding any other law and consistent with  
37 paragraph (1) of subdivision (a), if the secretary or the Board of  
38 Parole Hearings or both determine that a prisoner satisfies the  
39 criteria set forth in paragraph (2), the secretary or the board may  
40 recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in ~~subparagraph~~ *subparagraphs* (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, *and* loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) ~~Any~~ A physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the

1 prisoner's medical condition and the status of the prisoner's recall  
2 and resentencing proceedings.

3 (6) Notwithstanding any other provisions of this section, the  
4 prisoner or his or her family member or designee may  
5 independently request consideration for recall and resentencing  
6 by contacting the chief medical officer at the prison or the  
7 secretary. Upon receipt of the request, the chief medical officer  
8 and the warden or the warden's representative shall follow the  
9 procedures described in paragraph (4). If the secretary determines  
10 that the prisoner satisfies the criteria set forth in paragraph (2), the  
11 secretary or board may recommend to the court that the prisoner's  
12 sentence be recalled. The secretary shall submit a recommendation  
13 for release within 30 days in the case of inmates sentenced to  
14 determinate terms and, in the case of inmates sentenced to  
15 indeterminate terms, the secretary shall make a recommendation  
16 to the Board of Parole Hearings with respect to the inmates who  
17 have applied under this section. The board shall consider this  
18 information and make an independent judgment pursuant to  
19 paragraph (2) and make findings related thereto before rejecting  
20 the request or making a recommendation to the court. This action  
21 shall be taken at the next lawfully noticed board meeting.

22 (7) ~~Any~~ A recommendation for recall submitted to the court by  
23 the secretary or the Board of Parole Hearings shall include one or  
24 more medical evaluations, a postrelease plan, and findings pursuant  
25 to paragraph (2).

26 (8) If possible, the matter shall be heard before the same judge  
27 of the court who sentenced the prisoner.

28 (9) If the court grants the recall and resentencing application,  
29 the prisoner shall be released by the department within 48 hours  
30 of receipt of the court's order, unless a longer time period is agreed  
31 to by the inmate. At the time of release, the warden or the warden's  
32 representative shall ensure that the prisoner has each of the  
33 following in his or her possession: a discharge medical summary,  
34 full medical records, state identification, parole medications, and  
35 all property belonging to the prisoner. After discharge, any  
36 additional records shall be sent to the prisoner's forwarding  
37 address.

38 (10) The secretary shall issue a directive to medical and  
39 correctional staff employed by the department that details the  
40 guidelines and procedures for initiating a recall and resentencing

1 procedure. The directive shall clearly state that ~~any~~ a prisoner who  
2 is given a prognosis of six months or less to live is eligible for  
3 recall and resentencing consideration, and that recall and  
4 resentencing procedures shall be initiated upon that prognosis.

5 (f) ~~Any~~ A sentence imposed under this article shall be subject  
6 to the provisions of Sections 3000 and 3057 and ~~any~~ other  
7 applicable provisions of law.

8 (g) A sentence to state prison for a determinate term for which  
9 only one term is specified, is a sentence to state prison under this  
10 section.

11 (h) This section shall remain in effect only until January 1, 2009,  
12 and as of that date is repealed, unless a later enacted statute, that  
13 is enacted before that date, deletes or extends that date.

14 SEC. 182. Section 1369.1 of the Penal Code is amended to  
15 read:

16 1369.1. (a) As used in this chapter, for the sole purpose of  
17 administering antipsychotic medication pursuant to a court order,  
18 “treatment facility” includes a county jail. Upon the concurrence  
19 of the county board of supervisors, the county mental health  
20 director, and the county sheriff, the jail may be designated to  
21 provide medically approved medication to defendants found to be  
22 mentally incompetent and unable to provide informed consent due  
23 to a mental disorder, pursuant to this chapter. In the case of Madera,  
24 Napa, and Santa Clara Counties, the concurrence shall be with the  
25 board of supervisors, the county mental health director, and the  
26 county sheriff or the chief of corrections. The provisions of ~~Section~~  
27 ~~Sections~~ 1370 and 1370.01 shall apply to antipsychotic medications  
28 provided in a county jail, provided, however, that the maximum  
29 period of time a defendant may be treated in a treatment facility  
30 pursuant to this section shall not exceed six months.

31 (b) The State Department of Mental Health shall report to the  
32 Legislature on or before January 1, 2009, on all of the following:

33 (1) The number of defendants in the state who are incompetent  
34 to stand trial.

35 (2) The resources available at state hospitals and local mental  
36 health facilities, other than jails, for returning these defendants to  
37 competence.

38 (3) Additional resources that are necessary to reasonably treat,  
39 in a reasonable period of time, at the state and local levels,  
40 excluding jails, defendants who are incompetent to stand trial.

1 (4) What, if any, statewide standards and organizations exist  
2 concerning local treatment facilities that could treat defendants  
3 who are incompetent to stand trial.

4 (5) Address the concerns regarding defendants who are  
5 incompetent to stand trial who are currently being held in jail  
6 awaiting treatment.

7 ~~(c) Nothing in this section shall be construed to~~ *This section*  
8 *does not* abrogate or ~~in any way~~ limit any provision of law enacted  
9 to ensure the due process rights set forth in *Sell v. United States*  
10 (2003) 539 U.S. 166.

11 (d) This section shall remain in effect only until January 1, 2010,  
12 and as of that date is repealed, unless a later enacted statute, that  
13 is enacted before January 1, 2010, deletes or extends that date.

14 SEC. 183. Section 11062 of the Penal Code is amended to read:  
15 11062. (a) The Department of Justice shall establish and chair  
16 a task force to conduct a review of California's crime laboratory  
17 system.

18 (b) The task force shall be known as the "Crime Laboratory  
19 Review Task Force." The composition of the task force shall,  
20 *except as specified in paragraph (16)*, be comprised of ~~a one~~  
21 representative of each of the following entities:

- 22 (1) The Department of Justice.
- 23 (2) The California Association of Crime Laboratory Directors.
- 24 (3) The California Association of Criminalists.
- 25 (4) The International Association for Identification.
- 26 (5) The American Society of Crime Laboratory Directors.
- 27 (6) The *Department of the* California Highway Patrol.
- 28 (7) The California State ~~Sheriffs~~ *Sheriffs'* Association, from a  
29 department with a crime laboratory.
- 30 (8) The California District Attorneys Association, from an office  
31 with a crime laboratory.
- 32 (9) The California Police Chiefs Association, from a department  
33 with a crime laboratory.
- 34 (10) The California Peace ~~Officers~~ *Officers'* Association.
- 35 (11) The California Public Defenders Association.
- 36 (12) A private criminal defense attorney organization.
- 37 (13) The Judicial Council, to be appointed by the Chief Justice.
- 38 (14) The Office of the Speaker of the Assembly.
- 39 (15) The Office of the President pro Tempore of the Senate.
- 40 (16) Two representatives to be appointed by the Governor.

(c) The task force shall review and make recommendations as to how best to configure, fund, and improve the delivery of state and local crime laboratory services in the future. To the extent feasible, the review and recommendations shall include, but are not limited to, addressing the following issues:

(1) With respect to organization and management of crime laboratory services, consideration of the following:

(A) If the existing mix of state and local crime laboratories is the most effective and efficient means to meet California's future needs.

(B) Whether laboratories should be further consolidated. If consolidation occurs, who should have oversight of crime laboratories.

(C) If management responsibilities for some laboratories should be transferred.

(D) Whether all laboratories should provide similar services.

(E) How other states have addressed similar issues.

(2) With respect to staff and training, consideration of the following:

(A) How to address recruiting and retention problems of laboratory staff.

(B) Whether educational and training opportunities are adequate to supply the needs of fully trained forensic criminalists in the future.

(C) Whether continuing education is available to ensure that forensic science personnel are up-to-date in their fields of expertise.

(D) If crime laboratory personnel should be certified, and, if so, the appropriate agency to assume this responsibility.

(E) The future educational role, if any, for the University of California or *the* California State University systems.

(3) With respect to funding, consideration of the following:

(A) Whether the current method of funding laboratories is predictable, stable, and adequate to meet future growth demands and to provide accurate and timely testing results.

(B) The adequacy of salary structures to attract and retain competent analysts and examiners.

(4) With respect to performance standards and equipment, consideration of the following:



1 (A) Whether workload demands are being prioritized properly  
2 and whether there are important workload issues not being  
3 addressed.

4 (B) If existing laboratories have the necessary capabilities,  
5 staffing, and equipment.

6 (C) If statewide standards should be developed for the  
7 accreditation of forensic laboratories, including minimum staffing  
8 levels, and if so, a determination regarding what entity should  
9 serve as the sanctioning body.

10 (d) The task force *also* shall ~~also~~ seek input from specialized  
11 law enforcement disciplines, other state and local agencies, relevant  
12 advocacy groups, and the public. The final report *also* shall ~~also~~  
13 include a complete inventory of existing California crime  
14 laboratories. This inventory shall contain sufficient details on  
15 staffing, workload, budget, major instrumentation, and  
16 organizational placement within the controlling agency.

17 (e) The first meeting of the task force shall occur no later than  
18 ~~60 days after the effective date of this act~~ *December 9, 2007*.

19 (f) On or before July 1, 2009, the task force shall submit a final  
20 report of its findings to the Department of Finance, and to the  
21 budget and public safety committees of both houses *of the*  
22 *Legislature*.

23 SEC. 184. Section 4584 of the Public Resources Code is  
24 amended to read:

25 4584. Upon determining that the exemption is consistent with  
26 the purposes of this chapter, the board may exempt from this  
27 chapter, or portions thereof, a person engaged in forest management  
28 whose activities are limited to any of the following:

29 (a) The cutting or removal of trees for the purpose of  
30 constructing or maintaining a right-of-way for utility lines.

31 (b) The planting, growing, nurturing, shaping, shearing, removal,  
32 or harvest of immature trees for Christmas trees or other ornamental  
33 purposes or minor forest products, including fuelwood.

34 (c) The cutting or removal of dead, dying, or diseased trees of  
35 any size.

36 (d) Site preparation.

37 (e) Maintenance of drainage facilities and soil stabilization  
38 treatments.

39 (f) Timber operations on land managed by the Department of  
40 Parks and Recreation.

(g) (1) The one-time conversion of less than three acres to a nontimber use. A person, whether acting as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or ~~any~~ other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this subdivision, means an individual, partnership, corporation, or ~~any~~ other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that become effective and operative on or before July 1, 2002, and do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption under this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption under this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

(iv) The board may adopt regulations allowing a waiver of the five-year limitation described in paragraph (1) upon finding that the imposition of the five-year limitation would impose an undue hardship on the applicant for the exemption. The board may adopt a process for an appeal of a denial of a waiver.

(B) The application form for the exemption pursuant to paragraph (1) shall prominently advise the public that a violation of the conversion exemption, including a conversion applied for in the name of someone other than the person or entity

1 implementing the conversion in bona fide good faith, is a violation  
2 of this chapter and penalties may accrue up to ten thousand dollars  
3 (\$10,000) for each violation pursuant to Article 8 (commencing  
4 with Section 4601).

5 (h) Easements granted by a right-of-way construction agreement  
6 administered by the federal government if any timber sales and  
7 operations within or affecting these areas are reviewed and  
8 conducted pursuant to the National Environmental Policy Act of  
9 1969 (42 U.S.C. Sec. 4321 et seq.).

10 (i) The cutting, removal, or sale of timber or other solid wood  
11 forest products from the species *Taxus brevifolia* (Pacific yew),  
12 if the known locations of any stands of this species three inches  
13 and larger in diameter at breast height are identified in the  
14 exemption notice submitted to the department. Nothing in this  
15 subdivision is intended to authorize the peeling of bark from, or  
16 the cutting or removal of, *Taxus brevifolia* within a watercourse  
17 and lake protection zone, special treatment area, buffer zone, or  
18 other area where timber harvesting is prohibited or otherwise  
19 restricted pursuant to board rules.

20 (j) (1) The cutting or removal of trees in compliance with  
21 Sections 4290 and 4291, that eliminates the vertical continuity of  
22 vegetative fuels and the horizontal continuity of tree crowns for  
23 the purpose of reducing flammable materials and maintaining a  
24 fuel break for a distance of not more than 150 feet on each side  
25 from an approved and legally permitted structure that complies  
26 with the California Building *Standards* Code, when that cutting  
27 or removal is conducted in compliance with this subdivision. For  
28 purposes of this subdivision, an “approved and legally permitted  
29 structure” includes only structures that are designed for human  
30 occupancy and garages, barns, stables, and structures used to  
31 enclose fuel tanks.

32 (2) (A) The cutting or removal of trees pursuant to this  
33 subdivision is limited to cutting or removal that will result in a  
34 reduction in the rate of fire spread, fire duration and intensity, fuel  
35 ignitability, or ignition of the tree crowns and shall be in  
36 accordance with any regulations adopted by the board pursuant to  
37 this section.

38 (B) Trees shall not be cut or removed pursuant to this  
39 subdivision by the clearcutting regeneration method, by the seed

1 tree removal step of the seed tree regeneration method, or by the  
2 shelterwood removal step of the shelterwood regeneration method.

3 (3) (A) Surface fuels, including logging slash and debris, low  
4 brush, and deadwood, that could promote the spread of wildfire  
5 shall be chipped, burned, or otherwise removed from all areas of  
6 timber operations within 45 days from the date of commencement  
7 of timber operations pursuant to this subdivision.

8 (B) (i) All surface fuels that are not chipped, burned, or  
9 otherwise removed from all areas of timber operations within 45  
10 days from the date of commencement of timber operations may  
11 be determined to be a nuisance and subject to abatement by the  
12 department or the city or county having jurisdiction.

13 (ii) The costs incurred by the department, city, or county, as the  
14 case may be, to abate the nuisance upon any parcel of land subject  
15 to the timber operations, including, but not limited to, investigation,  
16 boundary determination, measurement, and other related costs,  
17 may be recovered by special assessment and lien against the parcel  
18 of land by the department, city, or county. The assessment may  
19 be collected at the same time and in the same manner as ordinary  
20 ad valorem taxes, and shall be subject to the same penalties and  
21 the same procedure and sale in case of delinquency as is provided  
22 for ad valorem taxes.

23 (4) All timber operations conducted pursuant to this subdivision  
24 shall conform to applicable city or county general plans, city or  
25 county implementing ordinances, and city or county zoning  
26 ordinances. ~~Nothing in this paragraph is intended to~~ *This paragraph*  
27 *does not* authorize the cutting, removal, or sale of timber or other  
28 solid wood forest products within an area where timber harvesting  
29 is prohibited or otherwise restricted pursuant to the rules or  
30 regulations adopted by the board.

31 (5) (A) The board shall adopt regulations, initially as emergency  
32 regulations in accordance with subparagraph (B), that the board  
33 considers necessary to implement and to obtain compliance with  
34 this subdivision.

35 (B) The emergency regulations adopted pursuant to  
36 subparagraph (A) shall be adopted in accordance with the  
37 Administrative Procedure Act (Chapter 3.5 (commencing with  
38 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
39 Code). The adoption of emergency regulations shall be deemed to

1 be an emergency and necessary for the immediate preservation of  
2 the public peace, health, and safety, or general welfare.

3 (k) (1) Until January 1, 2013, the harvesting of trees, limited  
4 to those trees that eliminate the vertical continuity of vegetative  
5 fuels and the horizontal continuity of tree crowns, for the purpose  
6 of reducing the rate of fire spread, duration and intensity, fuel  
7 ignitability, or ignition of tree crowns.

8 (2) The board may authorize an exemption pursuant to paragraph  
9 (1) only if the tree harvesting will decrease fuel continuity and  
10 increase the quadratic mean diameter of the stand, and the tree  
11 harvesting area will not exceed 300 acres.

12 (3) The notice of exemption, which shall be known as the Forest  
13 Fire Prevention Exemption, may be authorized only if all of the  
14 conditions specified in paragraphs (4) to (10), inclusive, are met.

15 (4) A registered professional forester shall prepare the notice  
16 of exemption and submit it to the director, and include a map of  
17 the area of timber operations that complies with the requirements  
18 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision  
19 (x) of Section 1034 of Title 14 of the California Code of  
20 Regulations.

21 (5) (A) The registered professional forester who submits the  
22 notice of exemption shall include a description of the preharvest  
23 stand structure and a statement of the postharvest stand stocking  
24 levels.

25 (B) The level of residual stocking shall be consistent with  
26 maximum sustained production of high-quality timber products.  
27 The residual stand shall consist primarily of healthy and vigorous  
28 dominant and codominant trees from the preharvest stand. Stocking  
29 shall not be reduced below the standards required by any of the  
30 following provisions that apply to the exemption at issue:

31 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
32 (1) of subdivision (a) of Section 913.3 of Title 14 of the California  
33 Code of Regulations.

34 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
35 (1) of subdivision (a) of Section 933.3 of Title 14 of the California  
36 Code of Regulations.

37 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
38 (1) of subdivision (a) of Section 953.3 of Title 14 of the California  
39 Code of Regulations.

1 (C) If the preharvest dominant and codominant crown canopy  
2 is occupied by trees less than 14 inches *in* diameter at breast height,  
3 a minimum of 100 trees over four inches *in* diameter at breast  
4 height shall be retained per acre for Site I, II, and III lands, and a  
5 minimum of 75 trees over four inches *in* diameter at breast height  
6 shall be retained per acre for Site IV and V lands.

7 (6) (A) The registered professional forester who submits the  
8 notice shall include selection criteria for the trees to be harvested  
9 or the trees to be retained. In the development of fuel reduction  
10 prescriptions, the registered professional forester should consider  
11 retaining habitat elements, where feasible, including, but not  
12 limited to, ground level cover necessary for the long-term  
13 management of local wildlife populations.

14 (B) All trees that are harvested or all trees that are retained shall  
15 be marked or sample marked by or under the supervision of a  
16 registered professional forester before felling operations begin.  
17 The board shall adopt regulations for sample marking for this  
18 section in Title 14 of the California Code of Regulations. Sample  
19 marking shall be limited to homogenous forest stand conditions  
20 typical of plantations.

21 (7) (A) The registered professional forester submitting the  
22 notice, upon submission of the notice, shall provide a confidential  
23 archaeology letter that includes all of the information required by  
24 any of the following provisions that apply to the exemption at  
25 issue:

26 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
27 of Section 929.1 of Title 14 of the California Code of Regulations,  
28 and include site records if required pursuant to subdivision (g) of  
29 that section or pursuant to Section 929.5 of Title 14 of the  
30 California Code of Regulations.

31 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
32 of Section 949.1 of Title 14 of the California Code of Regulations,  
33 and include site records if required pursuant to subdivision (g) of  
34 that section or pursuant to Section 949.5 of Title 14 of the  
35 California Code of Regulations.

36 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
37 of Section 969.1 of Title 14 of the California Code of Regulations,  
38 and include site records if required pursuant to subdivision (g) of  
39 that section or pursuant to Section 969.5 of Title 14 of the  
40 California Code of Regulations.

(B) The director shall submit a complete copy of the confidential archaeological letter and two copies of all required archaeological or historical site records; to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of notice submittal to the director. Before submitting the notice to the director, the registered professional forester shall send a copy of the notice to Native Americans, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(8) Only trees less than 18 inches *in* stump diameter, measured at eight inches above ground level, may be removed. However, within 500 feet of a legally permitted structure, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches *in* stump diameter, trees less than 24 inches *in* stump diameter may be removed if that removal complies with this section and is necessary to achieve the goal of fuel reduction. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(9) (A) This subparagraph applies to areas within 500 feet of a legally permitted structure and in areas prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency. The board shall adopt regulations for the treatment of surface and ladder fuels in the harvest area, including logging slash and debris, low brush, small trees, and deadwood, that could promote the spread of wildfire. The regulations adopted by the board shall be consistent with the standards in the board's "General Guidelines for Creating Defensible Space" described in Section 1299 of Title 14 of the California Code of Regulations. Postharvest standards shall include vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the postharvest fuels, whichever is the greater distance, measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the surface fuels.

(ii) Horizontal spacing shall achieve a minimum separation of two to six times the height of the postharvest fuels, increasing spacing with increasing slope, measured from the outside branch edges of the fuels.

(iii) Dead surface fuel depth shall be less than nine inches.

(iv) Standing dead or dying trees and brush *generally* shall ~~generally~~ be removed. That material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subparagraph applies to all areas not described in subparagraph (A).

(i) The postharvest stand shall contain no more than 200 trees over three inches in diameter per acre.

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of eight feet measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum postharvest depth of nine inches above the ground.

(C) The standards required by subparagraphs (A) and (B) shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the standards. Ladder and surface fuel treatments, for any portion of the exemption area where timber operations have occurred, shall be done within 120 days from the start of timber operations on that portion of the exemption area or by April 1 of the year following surface fuel creation on that portion of the exemption area if the surface fuels are burned.

(10) Timber operations shall comply with the requirements of paragraphs (1) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations. Timber operations in the Lake Tahoe-~~Region~~ *region* shall comply instead with the requirements of paragraphs (1) to (16), inclusive, of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(11) After the timber operations are complete, the department shall conduct an onsite inspection to determine compliance with this subdivision and whether appropriate enforcement action should be initiated.



SEC. 185. Section 5818.2 of the Public Resources Code is amended to read:

5818.2. (a) (1) The funds in the Coastal Wetlands Fund may be expended by the Department of Fish and Game and the State Coastal Conservancy, upon appropriation by the Legislature, for the maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(2) The funds in the Coastal Wetlands Fund may be expended by the state pursuant to this section in the ~~from~~ form of grants.

(3) An applicant may apply to the State Coastal Conservancy for a grant pursuant to the grant application procedures in Division 21 (commencing with Section 31000); to perform maintenance of coastal wetlands property owned by the state, a conservancy of the state, a local government agency, or a nonprofit organization.

(b) The Department of Fish and Game and the State Coastal Conservancy may accept contributions to the Coastal Wetlands Fund. The sources of contributions that may be accepted include, but are not limited to, private individuals and organizations, nonprofit organizations, and federal, state, and local agencies including special districts. The contributions accepted may include ~~money~~ moneys identified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) as acceptable mitigation for development projects. The Department of Fish and Game and the State Coastal Conservancy shall deposit a contribution accepted pursuant to this subdivision in the Coastal Wetlands Fund, subject to the requirements of Section 5818.1.

SEC. 186. Section 25402.5.4 of the Public Resources Code is amended to read:

25402.5.4. (a) On or before December 31, 2008, the commission shall adopt minimum energy efficiency standards for all general purpose lights on a schedule specified in the regulations. The regulations, in combination with other programs and activities affecting lighting use in the state, shall be structured to reduce average statewide electrical energy consumption by not less than 50 percent from the 2007 levels for indoor residential lighting and by not less than 25 percent from the 2007 levels for indoor commercial and outdoor lighting, by 2018.

1 (b) The commission shall make recommendations to the  
2 Governor and the Legislature regarding how to continue reductions  
3 in electrical consumption for lighting beyond 2018.

4 (c) The commission may establish programs to encourage the  
5 sale in this state of general purpose lights that meet or exceed the  
6 standards set forth in subdivision (a).

7 (d) (1) Except as provided in paragraph (2), the Department of  
8 General Services, and all other state agencies, as defined in Section  
9 ~~12000~~ 12200 of the Public Contract Code, in coordination with  
10 the commission, shall cease purchasing general purpose lights that  
11 do not meet the standards adopted pursuant to subdivision (a),  
12 within two years of those standards being adopted.

13 (2) The Department of General Services, and all other state  
14 agencies, as defined in Section ~~12000~~ 12200 of the Public Contract  
15 Code, in coordination with the commission shall cease purchasing  
16 general—service *purpose* lights with an appearance that is  
17 historically appropriate for the facilities in which the lights are  
18 being used, and that do not meet the standards adopted pursuant  
19 to subdivision (a) within four years of those standards being  
20 adopted.

21 (e) It is the intent of the Legislature to encourage the Regents  
22 of the University of California, in coordination with the  
23 commission, to cease purchasing general purpose lights that do  
24 not meet the standards adopted pursuant to subdivision (a), within  
25 two years of those standards being adopted.

26 (f) (1) (A) For purposes of this section, “general purpose lights”  
27 means lamps, bulbs, tubes, or other electric devices that provide  
28 functional illumination for indoor residential, indoor commercial,  
29 and outdoor use.

30 (B) General purpose lights do not include any of the following  
31 *types of* specialty lighting: appliance, black light, bug, colored,  
32 infrared, left-hand thread, marine, marine signal service, mine  
33 service, plant light, reflector, rough service, shatter resistant, sign  
34 service, silver bowl, showcase, three-way, traffic signal, and  
35 vibration service or vibration resistant.

36 (2) The commission may, after one or more public workshops,  
37 with public notice and an opportunity for all interested parties to  
38 comment, provide for inclusion of a particular type of specialty  
39 light in its energy efficiency standards applicable to general  
40 purpose lighting, if it finds that there has been a significant increase

1 in sales of that particular type of particular specialty light due to  
2 the use of that specialty light in general purpose lighting  
3 applications.

4 (3) General purpose lights do not include lights needed to  
5 provide special-needs lighting for individuals with exceptional  
6 needs.

7 SEC. 187. Section 25402.10 of the Public Resources Code is  
8 amended to read:

9 25402.10. (a) On and after January 1, 2009, electric and gas  
10 utilities shall maintain records of the energy consumption data of  
11 all nonresidential buildings to which they provide service. This  
12 data shall be maintained, in a format compatible for uploading to  
13 the United States Environmental Protection Agency's ~~Energy Star~~  
14 *ENERGY STAR* Portfolio Manager, for at least the most recent 12  
15 months.

16 (b) On and after January 1, 2009, upon the written authorization  
17 or secure electronic authorization of a nonresidential building  
18 owner or operator, an electric or gas utility shall upload all of the  
19 energy consumption data for the account specified for a building  
20 to the United States Environmental Protection Agency's ~~Energy~~  
21 ~~Star~~ *ENERGY STAR* Portfolio Manager in a manner that preserves  
22 the confidentiality of the customer.

23 (c) ~~In carrying out the requirements of this section, an electric~~  
24 ~~or gas utility may use any method for providing the specified data~~  
25 ~~in order to maximize efficiency and minimize overall program~~  
26 ~~cost, and is encouraged to work with the United States~~  
27 ~~Environmental Protection Agency and customers in developing~~  
28 ~~reasonable reporting options.~~

29 (d) On and after January 1, 2010, an owner or operator of a  
30 nonresidential building shall disclose the United States  
31 Environmental Protection Agency's ~~Energy Star~~ *ENERGY STAR*  
32 Portfolio Manager benchmarking data and ratings for the most  
33 recent 12-month period to a prospective buyer, lessee of the entire  
34 building, or lender that would finance the entire building. If the  
35 data is delivered to a prospective buyer, lessee, or lender, a property  
36 owner, operator, or ~~their~~ *his or her* agent is not required to provide  
37 additional information, and the information shall be deemed to be  
38 adequate to inform the prospective buyer, lessee, or lender  
39 regarding the United States Environmental Protection Agency's  
40 ~~Energy Star~~ *ENERGY STAR* Portfolio Manager benchmarking data

1 and ratings for the most recent 12-month period for the building  
2 that is being sold, leased, financed, or refinanced.

3 (e) Notwithstanding subdivision (d), ~~nothing in this section~~  
4 ~~increases or decreases~~ *this section does not increase or decrease*  
5 the duties, if any, of a property owner, operator, or his or her broker  
6 or agent under this chapter or alters the duty of a seller, agent, or  
7 broker to disclose the existence of a material fact affecting the real  
8 property.

9 SEC. 188. Section 30253 of the Public Resources Code is  
10 amended to read:

11 30253. New development shall *do all of the following*:

12 ~~(1)~~

13 (a) Minimize risks to life and property in areas of high geologic,  
14 flood, and fire hazard.

15 ~~(2)~~

16 (b) Assure stability and structural integrity, and neither create  
17 nor contribute significantly to erosion, geologic instability, or  
18 destruction of the site or surrounding area or in any way require  
19 the construction of protective devices that would substantially alter  
20 natural landforms along bluffs and cliffs.

21 ~~(3)~~

22 (c) Be consistent with requirements imposed by an air pollution  
23 control district or the State Air Resources ~~Control~~ Board as to each  
24 particular development.

25 ~~(4)~~

26 (d) Minimize energy consumption and vehicle miles traveled.

27 ~~(5)~~

28 (e) Where appropriate, protect special communities and  
29 neighborhoods ~~which~~ *that*, because of their unique characteristics,  
30 are popular visitor destination points for recreational uses.

31 SEC. 189. Section 30327.5 of the Public Resources Code is  
32 amended to read:

33 30327.5. (a) An interested person shall not give, convey, or  
34 make available gifts aggregating more than ten dollars (\$10) in a  
35 calendar month to a commissioner or a member of the  
36 commission's staff.

37 (b) A commissioner or member of the commission's staff shall  
38 not accept gifts aggregating more than ten dollars (\$10) in a  
39 calendar month from an interested person.

1 (c) For ~~the~~ purposes of this section, “interested person” shall  
2 have the same meaning as the term is defined in Section 30323.

3 (d) For ~~the~~ purposes of this section, “gift” means, except as  
4 provided in subdivision (e), ~~any~~ a payment, as defined in Section  
5 82044 of the Government Code, that confers a personal benefit on  
6 the recipient, to the extent that consideration of equal or greater  
7 value is not received and includes a rebate or discount in the price  
8 of anything of value unless the rebate or discount is made in the  
9 regular course of business to members of the public without regard  
10 to official status. ~~Any~~ A person, other than a defendant in a criminal  
11 action, who claims that a payment is not a gift by reason of receipt  
12 of consideration has the burden of proving that the consideration  
13 received is of equal or greater value.

14 (e) For ~~the~~ purposes of this section, “gift” does not include any  
15 of the following:

16 (1) A gift ~~which~~ *that* is not used and ~~which~~ *that*, within 30 days  
17 after receipt, is either returned to the donor or delivered to a  
18 nonprofit entity exempt from taxation under Section 501(c)(3) of  
19 the Internal Revenue Code, without being claimed as a charitable  
20 contribution for tax purposes.

21 (2) A gift from an individual’s spouse, child, parent,  
22 grandparent, grandchild, brother, sister, parent-in-law,  
23 brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first  
24 cousin, or the spouse of ~~any such person~~ *one of those individuals*.  
25 However, a gift from ~~any such person~~ *one of those people* shall be  
26 considered a gift if the donor is acting as an agent or intermediary  
27 for ~~any~~ a person not covered in this paragraph.

28 (3) A cost associated with the provision of evidentiary material  
29 provided to the commission and its staff.

30 (4) An educational or training activity that has received prior  
31 approval from the commission.

32 (5) A field trip or site inspection that is made available on equal  
33 terms and conditions to all commissioners and appropriate staff.

34 (6) A reception or purely social event that is not offered in  
35 connection with or is not intended to influence a decision or action  
36 of the commission and that is open to all commissioners, members  
37 of the staff, and members of the public and press.

38 SEC. 190. Section 30327.6 of the Public Resources Code is  
39 amended to read:

1 30327.6. (a) (1) Except as provided in paragraph (2), a person  
2 who for compensation attempts to influence or affect the outcome  
3 of a commission decision or action and who violates Section  
4 30327.5 may, in addition to any other applicable penalty, be barred  
5 from any activity seeking to influence or affect the outcome of a  
6 commission decision or action for a period of up to one year from  
7 the date of the finding of the violation. Each violation shall be  
8 grounds for the person being barred from any activity seeking to  
9 influence or affect a commission decision or action for an  
10 additional year from the date of conviction.

11 (2) ~~Nothing in this section shall be construed to~~ *This section*  
12 *does not* prohibit an individual from representing himself or herself  
13 in seeking to influence or affect the outcome of a commission  
14 decision or action if that individual is acting solely on his or her  
15 own personal behalf and not on ~~the behalf of any other~~ *another*  
16 person or entity.

17 (b) A person who violates Section 30327.5 shall, in addition to  
18 any other applicable penalty, be subject to a civil fine not to exceed  
19 five hundred dollars (\$500) for each violation.

20 SEC. 191. Section 31408 of the Public Resources Code is  
21 amended to read:

22 31408. (a) The conservancy shall, in consultation with the  
23 Department of Parks and Recreation, the California Coastal  
24 Commission, and the ~~California~~ Department of Transportation,  
25 coordinate the development of the California Coastal Trail.

26 (b) To the extent feasible, and consistent with their individual  
27 mandates, each agency, board, department, or commission of the  
28 state with property interests or regulatory authority in coastal areas  
29 shall cooperate with the conservancy with respect to planning and  
30 making lands available for completion of the trail, including  
31 constructing trail links, placing signs, and managing the trail.

32 SEC. 192. Section 35615 of the Public Resources Code is  
33 amended to read:

34 35615. The council shall do all of the following:

35 (a) (1) Coordinate activities of state agencies, that are related  
36 to the protection and conservation of coastal waters and ocean  
37 ecosystems, to improve the effectiveness of state efforts to protect  
38 ocean resources within existing fiscal limitations, consistent with  
39 Sections 35510 and 35515.

1 (2) Establish policies to coordinate the collection, evaluation,  
2 and sharing of scientific data related to coastal and ocean resources  
3 among agencies.

4 (3) (A) Establish a science advisory team of distinguished  
5 scientists to assist the council in meeting the purposes of this  
6 division. At the request of the council, the science advisory team  
7 may convene to identify, develop, and prioritize subjects and  
8 questions for research or investigation, and review and evaluate  
9 results of research or investigations to provide information for the  
10 council's activities.

11 (B) The science advisory team shall include scientists from a  
12 range of disciplines that are a part of the council's purview.

13 (C) The science advisory team shall provide an independent  
14 and timely analysis of reports and studies, identifying areas of  
15 scientific ~~consensus~~ *consensus* or uncertainty, using the best  
16 available science by drawing on state, national, and international  
17 experts.

18 (D) Scientists selected as members of the science advisory team  
19 shall serve without compensation, except for reimbursement of  
20 expenses and subject to the terms of an existing contract with the  
21 state.

22 (4) Contract with the California Ocean Science Trust and other  
23 nonprofit organizations, ocean science institutes, academic  
24 institutions, or others that have experience in conducting the  
25 scientific and educational tasks that are required by the council.

26 (5) Transmit the results of research and investigations to state  
27 agencies to provide information for policy decisions.

28 (6) Identify and recommend to the Legislature changes in law  
29 needed to achieve the goals of this section.

30 (b) (1) Identify changes in federal law and policy necessary to  
31 achieve the goals of this division and to improve protection,  
32 conservation, and restoration of ocean ecosystems in federal and  
33 state waters off the state's coast.

34 (2) Recommend to the Governor and the Legislature actions the  
35 state should take to encourage those changes in federal law and  
36 policy.

37 SEC. 193. Section 40117 of the Public Resources Code is  
38 amended to read:

39 40117. "Gasification" means a technology that uses a  
40 noncombustion thermal process to convert solid waste to a clean

1 burning fuel for the purpose of generating electricity, and that, at  
2 minimum, meets all of the following criteria:

3 (a) The technology does not use air or oxygen in the conversion  
4 process, except ambient air to maintain temperature control.

5 (b) The technology produces no discharges of air contaminants  
6 or emissions, including greenhouse gases, as defined in subdivision  
7 (g) of Section 42801.1 38505 of the Health and Safety Code.

8 (c) The technology produces no discharges to surface or  
9 groundwaters of the state.

10 (d) The technology produces no hazardous waste.

11 (e) To the maximum extent feasible, the technology removes  
12 all recyclable materials and marketable green waste compostable  
13 materials from the solid waste stream prior to the conversion  
14 process and the owner or operator of the facility certifies that those  
15 materials will be recycled or composted.

16 (f) The facility where the technology is used is in compliance  
17 with all applicable laws, regulations, and ordinances.

18 (g) The facility certifies to the board that any local agency  
19 sending solid waste to the facility is in compliance with this  
20 division and has reduced, recycled, or composted solid waste to  
21 the maximum extent feasible, and the board makes a finding that  
22 the local agency has diverted at least 30 percent of all solid waste  
23 through source reduction, recycling, and composting.

24 SEC. 194. Section 353.1 of the Public Utilities Code is  
25 amended to read:

26 353.1. As used in this article, “distributed energy resources”  
27 means ~~any~~ electric generation technology that meets all of the  
28 following criteria:

29 (a) Commences initial operation between May 1, 2001, and  
30 June 1, 2003, except that gas-fired distributed energy resources  
31 that are not operated in a combined heat and power application  
32 ~~must~~ *shall* commence operation no later than September 1, 2002.

33 (b) Is located within a single facility.

34 (c) Is five megawatts or smaller in aggregate capacity.

35 (d) Serves onsite loads or over-the-fence transactions allowed  
36 under Sections 216 and 218.

37 (e) Is powered by any fuel other than diesel.

38 (f) Complies with emission standards and guidance adopted by  
39 the State Air Resources Board pursuant to Sections 41514.9 and  
40 41514.10 of the Health and Safety Code. Prior to the adoption of



1 those standards and guidance, for the purpose of this article,  
2 distributed energy resources shall meet ~~emissions~~ *emission* levels  
3 equivalent to nine parts per million oxides of nitrogen, or the  
4 equivalent standard taking into account efficiency as determined  
5 by the State Air Resources Board, averaged over a three-hour  
6 period, or best available control technology for the applicable air  
7 district, whichever is lower, except for distributed generation units  
8 that displace and therefore significantly reduce emissions from  
9 natural gas flares or reinjection compressors, as determined by the  
10 State Air Resources ~~Control~~ Board. These units shall comply with  
11 the applicable best available control technology as determined by  
12 the air pollution control district or air quality management district  
13 in which they are located.

14 SEC. 195. Section 399.12 of the Public Utilities Code is  
15 amended to read:

16 399.12. For purposes of this article, the following terms have  
17 the following meanings:

18 (a) “Conduit hydroelectric facility” means a facility for the  
19 generation of electricity that uses only the hydroelectric potential  
20 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other  
21 manmade conduit that is operated to distribute water for a  
22 beneficial use.

23 (b) “Delivered” and “delivery” have the same meaning as  
24 provided in subdivision (a) of Section 25741 of the Public  
25 Resources Code.

26 (c) “Eligible renewable energy resource” means an electric  
27 generating facility that meets the definition of “in-state renewable  
28 electricity generation facility” in *subdivision (b) of* Section 25741  
29 of the Public Resources Code, subject to the following limitations:

30 (1) (A) An existing small hydroelectric generation facility of  
31 30 megawatts or less shall be eligible only if a retail seller owned  
32 or procured the electricity from the facility as of December 31,  
33 2005. A new hydroelectric facility is not an eligible renewable  
34 energy resource if it will cause an adverse impact on instream  
35 beneficial uses or cause a change in the volume or timing of  
36 streamflow.

37 (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
38 facility of 30 megawatts or less that commenced operation before  
39 January 1, 2006, is an eligible renewable energy resource. A  
40 conduit hydroelectric facility of 30 megawatts or less that

1 commences operation after December 31, 2005, is an eligible  
2 renewable energy resource so long as it does not cause an adverse  
3 impact on instream beneficial uses or cause a change in the volume  
4 or timing of streamflow.

5 (2) A facility engaged in the combustion of municipal solid  
6 waste shall not be considered an eligible renewable *energy* resource  
7 unless it is located in Stanislaus County and was operational prior  
8 to September 26, 1996.

9 (d) “Energy Commission” means the State Energy Resources  
10 Conservation and Development Commission.

11 (e) “Local publicly owned electric utility” has the same meaning  
12 as provided in subdivision (d) of Section 9604.

13 (f) “Procure” means that a retail seller receives delivered  
14 electricity generated by an eligible renewable energy resource that  
15 it owns or for which it has entered into an electricity purchase  
16 agreement. ~~Nothing in this article is~~ *This article is not* intended to  
17 imply that the purchase of electricity from third parties in a  
18 wholesale transaction is the preferred method of fulfilling a retail  
19 seller’s obligation to comply with this article.

20 (g) “Renewables portfolio standard” means the specified  
21 percentage of electricity generated by eligible renewable energy  
22 resources that a retail seller is required to procure pursuant to this  
23 article.

24 (h) (1) “Renewable energy credit” means a certificate of proof,  
25 issued through the accounting system established by the Energy  
26 Commission pursuant to Section 399.13, that one unit of electricity  
27 was generated and delivered by an eligible renewable energy  
28 resource.

29 (2) “Renewable energy credit” includes all renewable and  
30 environmental attributes associated with the production of  
31 electricity from the eligible renewable energy resource, except for  
32 an ~~emissions~~ *emission* reduction credit issued pursuant to Section  
33 40709 of the Health and Safety Code and any credits or payments  
34 associated with the reduction of solid waste and treatment benefits  
35 created by the utilization of biomass or biogas fuels.

36 (3) No electricity generated by an eligible renewable energy  
37 resource attributable to the use of nonrenewable fuels, beyond a  
38 ~~de-minimus~~ *minimis* quantity, as determined by the Energy  
39 Commission, shall result in the creation of a renewable energy  
40 credit.

1 (i) “Retail seller” means an entity engaged in the retail sale of  
2 electricity to end-use customers located within the state, including  
3 any of the following:

4 (1) An electrical corporation, as defined in Section 218.

5 (2) A community choice aggregator. The commission shall  
6 institute a rulemaking to determine the manner in which a  
7 community choice aggregator will participate in the renewables  
8 portfolio standard program subject to the same terms and conditions  
9 applicable to an electrical corporation.

10 (3) An electric service provider, as defined in Section 218.3,  
11 for all sales of electricity to customers beginning January 1, 2006.  
12 The commission shall institute a rulemaking to determine the  
13 manner in which electric service providers will participate in the  
14 renewables portfolio standard program. The electric service  
15 provider shall be subject to the same terms and conditions  
16 applicable to an electrical corporation pursuant to this article.  
17 ~~Nothing in this paragraph shall~~ *This paragraph shall not* impair a  
18 contract entered into between an electric service provider and a  
19 retail customer prior to the suspension of direct access by the  
20 commission pursuant to Section 80110 of the Water Code.

21 (4) “Retail seller” does not include any of the following:

22 (A) A corporation or person employing cogeneration technology  
23 or producing electricity consistent with subdivision (b) of Section  
24 218.

25 (B) The Department of Water Resources acting in its capacity  
26 pursuant to Division 27 (commencing with Section 80000) of the  
27 Water Code.

28 (C) A local publicly owned electric utility.

29 SEC. 196. Section 884.5 of the Public Utilities Code is  
30 amended to read:

31 884.5. (a) This section shall apply to all customers eligible to  
32 receive discounts for telecommunications services under the federal  
33 Universal Service E-rate program administered by the Schools and  
34 Libraries Division of the Universal Service Administrative  
35 Company that also apply for discounts on telecommunications  
36 ~~service services~~ provided through the California Teleconnect Fund  
37 Administrative Committee Fund program pursuant to subdivision  
38 (a) of Section 280.

39 (b) A teleconnect discount shall be applied after applying an  
40 E-rate discount. The commission shall first apply an E-rate

1 discount, regardless of whether the customer has applied for an  
2 E-rate discount or has been approved, if the customer, in the  
3 determination of the commission, meets the eligibility requirements  
4 for an E-rate discount.

5 (c) Notwithstanding subdivision (b), the teleconnect discount  
6 shall be applied without regard to an E-rate discount for ~~any a~~  
7 school district that meets the conditions specified for compensation  
8 pursuant to Article 4 (commencing with Section 42280) of Chapter  
9 7 of Part 24 of *Division 3 of Title 2 of the Education Code*, unless  
10 that school district has applied for, and been approved to receive,  
11 the E-rate discount.

12 (d) In establishing ~~any a~~ discount under the California  
13 Teleconnect Fund *Administrative Committee Fund* program, the  
14 commission shall give priority to bridging the “digital divide” by  
15 encouraging expanded access to state-of-the-art technologies for  
16 rural, inner-city, low-income, and disabled Californians.

17 (e) As used in this section:

18 (1) “E-rate discount” means an actual discount under the E-rate  
19 program, or a representative discount figure as determined by the  
20 commission.

21 (2) “E-rate program” means the federal Universal Service E-rate  
22 program administered by the Schools and Libraries Division of  
23 the Universal Service Administrative Company.

24 (3) “Teleconnect discount” means a discount on  
25 telecommunications ~~service services~~ provided through the  
26 California Teleconnect Fund Administrative Committee Fund  
27 program set forth in subdivision (a) of Section 280.

28 ~~(f) This section shall become operative on January 1, 2006.~~

29 SEC. 197. Section 2829 of the Public Utilities Code is amended  
30 to read:

31 2829. (a) For purposes of this section, the following terms  
32 have the following meanings:

33 (1) “EBMUD” means the East Bay Municipal Utility District  
34 organized and operating pursuant to Division 6 (commencing with  
35 Section ~~10001~~) 11501).

36 (2) “Environmental attributes” associated with the generation  
37 of electricity include; the credits, benefits, emissions reductions,  
38 environmental air quality credits, and emissions reduction credits,  
39 offsets, and allowances, however entitled, resulting from the

1 avoidance of the emissions of any gas, chemical, or other substance  
2 attributable to an electricity generation facility.

3 (b) To ensure that no electrical corporation operates its  
4 monopoly transmission and distribution system in a manner that  
5 impedes the ability of the EBMUD to reduce its electricity costs  
6 through the delivery of electricity generated by EBMUD, an  
7 electrical corporation shall meet the requirements of this section.

8 (c) ~~Every~~*An* electrical corporation that owns and operates  
9 transmission and distribution facilities that deliver electricity at  
10 one or more locations to the EBMUD's system shall, upon request  
11 by EBMUD, and without discrimination or delay, use the same  
12 facilities to deliver electricity generated by EBMUD. EBMUD  
13 may elect to designate specific hydroelectric generation facilities  
14 owned by EBMUD for the generation of electricity to be delivered  
15 to EBMUD, if the following conditions are met:

16 (1) The amount of all electricity delivered to the electric grid  
17 by the designated EBMUD hydroelectric generation is the property  
18 of EBMUD.

19 (2) Ownership and use of the environmental attributes associated  
20 with the electricity delivered to the electric grid by ~~EBMUD~~  
21 ~~designated EBMUD-designated~~ hydroelectric generation is retained  
22 by EBMUD.

23 (d) (1) No rule, order, or tariff of the commission implementing  
24 direct transactions is applicable to electricity generated by  
25 EBMUD, that is delivered to EBMUD for its own use that is  
26 transported over the transmission and distribution system of an  
27 electrical corporation, pursuant to an election made by EBMUD  
28 pursuant to subdivision (c).

29 (2) Sections 365 and 366 are not applicable to electricity  
30 generated by EBMUD, that is delivered to EBMUD for its own  
31 use that is transported over the transmission and distribution system  
32 of an electrical corporation, pursuant to an election made by  
33 EBMUD pursuant to subdivision (c).

34 (e) To compensate an electrical corporation for the use of its  
35 facilities, EBMUD shall pay applicable rates approved by the  
36 commission for distribution, or distribution and transmission, or  
37 any transmission rates as required under federal law.

38 (f) On or before January 1, 2009, each electrical corporation  
39 that owns and operates transmission and distribution facilities that  
40 deliver electricity at one or more locations to the EBMUD system;

1 shall file an advice letter with the commission that complies with  
2 this section. The commission, within 150 days of the date of filing  
3 of the advice letter, shall approve the advice letter or specify  
4 conforming changes to be made by the electrical corporation, to  
5 be filed in an amended advice letter within 60 days.

6 (g) The commission shall ensure that the delivery of electricity  
7 from ~~EBMUD-designated~~ *EBMUD-designated* hydroelectric  
8 generation to the EBMUD service territory pursuant to this section  
9 does not result in a shifting of costs to the bundled service  
10 customers of an electrical corporation, either immediately or over  
11 time.

12 SEC. 198. Section 107.7 of the Revenue and Taxation Code  
13 is amended to read:

14 107.7. (a) When valuing possessory interests in real property  
15 created by the right to place wires, conduits, and appurtenances  
16 along or across public streets, rights-of-way, or public easements  
17 contained in either a cable franchise or license granted pursuant  
18 to Section 53066 of the Government Code (a “cable possessory  
19 interest”) or a state franchise to provide video service pursuant to  
20 Section 5840 of the Public Utilities Code (a “video possessory  
21 interest”), the assessor shall value these possessory interests  
22 consistent with the requirements of Section 401. The methods of  
23 valuation shall include, but not be limited to, the comparable sales  
24 method, the income method (including, but not limited to,  
25 capitalizing rent), or the cost method.

26 (b) (1) The preferred method of valuation of a cable television  
27 possessory interest or video service possessory interest by the  
28 assessor is capitalizing the annual rent, using an appropriate  
29 capitalization rate.

30 (2) For purposes of this section, the annual rent shall be that  
31 portion of that franchise fee received that is determined to be  
32 payment for the cable possessory interest or video service  
33 possessory interest for the actual remaining term or the reasonably  
34 anticipated term of the franchise or license or the appropriate  
35 economic rent. If the assessor does not use a portion of the  
36 franchise fee as the economic rent, the resulting assessments shall  
37 not benefit from any presumption of correctness.

38 (c) If the comparable sales method, which is not the preferred  
39 method, is used by the assessor to value a cable possessory interest  
40 or video service possessory interest when sold in combination with

1 other property, including, but not limited to, intangible assets or  
2 rights, the resulting assessments shall not benefit from any  
3 presumption of correctness.

4 (d) Intangible assets or rights of a cable system or the provider  
5 of video services are not subject to ad valorem property taxation.  
6 These intangible assets or rights, include, but are not limited to:  
7 franchises or licenses to construct, operate, and maintain a cable  
8 system or video service system for a specified franchise term  
9 (excepting therefrom that portion of the franchise or license which  
10 grants the possessory interest);, subscribers, marketing, and  
11 programming contracts;; nonreal property lease agreements;;  
12 management and operating systems;; ~~a-work-force~~ *workforce* in  
13 place;; going concern value;; deferred, startup, or prematurity  
14 costs;; covenants not to compete;; and goodwill. However, a cable  
15 possessory interest or video service possessory interest may be  
16 assessed and valued by assuming the presence of intangible assets  
17 or rights necessary to put the cable possessory interest or video  
18 service possessory interest to beneficial or productive use in an  
19 operating cable system or video service system.

20 (e) ~~Whenever any~~ *If* a change in ownership of a cable possessory  
21 interest or video service possessory interest occurs, the person or  
22 legal entity required to file a statement pursuant to Section 480,  
23 480.1, or 480.2; shall, at the request of the assessor, provide as a  
24 part of that statement the following, if applicable: confirmation of  
25 the sales price;, allocation of the sales price among the counties;;  
26 and gross revenue and franchise fee expenses of the cable system  
27 or video service system by county. Failure to provide ~~this the~~  
28 *statement* information shall result in a penalty as provided in  
29 Section 482, except that the maximum penalty shall be five  
30 thousand dollars (\$5,000).

31 SEC. 199. Section 8352.6 of the Revenue and Taxation Code  
32 is amended to read:

33 8352.6. (a) Subject to Section 8352.1, on the first day of every  
34 month, there shall be transferred from ~~money~~ *moneys* deposited  
35 to the credit of the Motor Vehicle Fuel Account to the Off-Highway  
36 Vehicle Trust Fund created by Section 38225 of the Vehicle Code  
37 an amount attributable to taxes imposed upon distributions of motor  
38 vehicle fuel used in the operation of motor vehicles off-highway  
39 and for which a refund has not been claimed. Transfers made

1 pursuant to this section shall be made prior to transfers pursuant  
2 to Section 8352.2.

3 (b) The amount transferred pursuant to subdivision (a), as a  
4 ~~percent~~ *percentage* of the Motor Vehicle Fuel Account, shall be  
5 equal to the ~~percent~~ *percentage* transferred in the 2006–07 fiscal  
6 year. Every five years, starting in the 2013–14 fiscal year, the  
7 ~~percent~~ *percentage* transferred may be adjusted by the Department  
8 of Transportation in cooperation with the Department of Parks and  
9 Recreation and the Department of Motor Vehicles. Adjustments  
10 shall be based on, but not limited to, the changes in the following  
11 factors since the 2006–07 fiscal year or the last adjustment,  
12 whichever is more recent:

13 (1) The number of vehicles registered as off-highway motor  
14 vehicles as required by Division 16.5 (commencing with Section  
15 38000) of the Vehicle Code.

16 (2) The number of registered street-legal vehicles that are  
17 anticipated to be used off-highway, including four-wheel drive  
18 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

19 (3) Attendance at the state vehicular recreation areas.

20 (4) Off-highway recreation use on federal lands as indicated by  
21 the United States Forest Service’s National Visitor Use Monitoring  
22 and the United States Bureau of Land Management’s Recreation  
23 Management Information System.

24 (c) It is the intent of the Legislature that transfers from the Motor  
25 Vehicle Fuel Account to the Off-Highway ~~Motorized~~ Vehicle Trust  
26 Fund should reflect the full range of motorized vehicle use  
27 off-highway for both motorized recreation and motorized off-road  
28 access to other recreation opportunities. Therefore, the Legislature  
29 finds that the fuel tax baseline established in subdivision (b),  
30 attributable to off-highway estimates of use as of the 2006–07  
31 fiscal year, accounts for the three categories of vehicles that have  
32 been found over the years to be users of fuel for off-highway  
33 motorized recreation or motorized access to nonmotorized  
34 recreational pursuits. These three categories are registered  
35 off-highway motorized vehicles, ~~registered-street-legal~~ *street-legal*  
36 motorized vehicles used off-highway, and unregistered off-highway  
37 motorized vehicles.

38 (d) It is the intent of the Legislature that the off-highway motor  
39 vehicle recreational use to be determined by the Department of  
40 Transportation pursuant to paragraph (2) of subdivision (b); be



that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

SEC. 200. Section 8352.8 of the Revenue and Taxation Code is amended to read:

8352.8. (a) The Conservation and Enforcement Services Account is hereby established as an account in the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code.

(b) Funds in the Conservation and Enforcement Services Account shall be allocated to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for expenditure, upon appropriation by the Legislature, for the following purposes:

(1) Up to the 40 percent of the funds, for cooperative agreements or challenge cost-sharing agreements with the United States Forest Service and the United States Bureau of Land Management, to complete necessary route designation planning work and to implement route planning decisions.

(2) Up to one million one hundred thousand dollars (\$1,100,000) for each grant cycle, to increase the amount of funds available for restoration grants in the program pursuant to paragraph (2) of subdivision (b) of Section 5090.50 of the Public Resources Code.

SEC. 201. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) (1) For a qualified renter, there shall be allowed a credit against his or her "~~net-tax~~" *(as tax,* as defined in Section ~~17039) 17039~~. The amount of the credit shall be as follows:

(A) For married couples filing joint returns, heads of household, and surviving spouses ~~(as, as defined in Section 17046) 17046~~, the credit shall be equal to one hundred twenty dollars (\$120) if adjusted gross income is fifty thousand dollars (\$50,000) or less.

(B) For other individuals, the credit shall be equal to sixty dollars (\$60) if adjusted gross income is twenty-five thousand dollars (\$25,000) or less.

(2) Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

1 (A) If one spouse was a resident for the entire taxable year and  
2 the other spouse was a nonresident for part or all of the taxable  
3 year, the resident spouse shall be allowed one-half the credit  
4 allowed to married persons and the nonresident spouse shall be  
5 permitted one-half the credit allowed to married persons, prorated  
6 as provided in subdivision (e).

7 (B) If both spouses were nonresidents for part of the taxable  
8 year, the credit allowed to married persons shall be divided equally  
9 between them subject to the proration provided in subdivision (e).

10 (b) For a husband and wife, if each spouse maintained a separate  
11 place of residence and resided in this state during the entire taxable  
12 year, each spouse will be allowed one-half the full credit allowed  
13 to married persons provided in subdivision (a).

14 (c) For purposes of this section, a “qualified renter” means an  
15 individual who *satisfies both of the following*:

16 (1) Was a resident of this state, as defined in Section 17014;  
17 ~~and~~.

18 (2) Rented and occupied premises in this state which constituted  
19 his or her principal place of residence during at least 50 percent  
20 of the taxable year.

21 (d) ~~The term “qualified”~~ “*Qualified* renter” does not include any  
22 of the following:

23 (1) An individual who for more than 50 percent of the taxable  
24 year rented and occupied premises that were exempt from property  
25 taxes, except that an individual, otherwise qualified, is deemed a  
26 qualified renter if he or she or his or her landlord pays possessory  
27 interest taxes, or the owner of those premises makes payments in  
28 lieu of property taxes that are substantially equivalent to property  
29 taxes paid on properties of comparable market value.

30 (2) An individual whose principal place of residence for more  
31 than 50 percent of the taxable year is with ~~any other~~ *another* person  
32 who claimed ~~such~~ *that* individual as a dependent for income tax  
33 purposes.

34 (3) An individual who has been granted or whose spouse has  
35 been granted the homeowners’ property tax exemption during the  
36 taxable year. This paragraph does not apply to an individual whose  
37 spouse has been granted the homeowners’ property tax exemption  
38 if each spouse maintained a separate residence for the entire taxable  
39 year.

(e) ~~Any~~ an otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) ~~Every~~ A person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) ~~For the purposes of this section, the term~~ “premises” means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobilehome. The credit is not allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners’ exemption under Section 218 in that year.

(i) This section shall become operative on January 1, 1998, and applies to any taxable year beginning on or after January 1, 1998.

(j) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the adjusted gross income amounts set forth in subdivision (a). ~~That~~ The computation shall be made as follows:

(1) ~~The California~~ Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to ~~that~~ the portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the amount in subparagraph (B) of paragraph (1) of subdivision (d) for the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar (\$1).

(4) In computing the amounts pursuant to this subdivision, the amounts provided in subparagraph (A) of paragraph (1) of subdivision (a) shall be twice the amount provided in subparagraph (B) of paragraph (1) of subdivision (a).

SEC. 202. Section 30182 of the Revenue and Taxation Code is amended to read:

30182. (a) Except as provided in subdivision (b), ~~every~~ a distributor shall file, on or before the 25th day of each month, a report in the form as prescribed by the board, that may include, but not be limited to, electronic media with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the board may require to carry out this part.

(b) Reports shall be authenticated in a form, or pursuant to methods, as may be prescribed by the board.

SEC. 203. Section 32258 of the Revenue and Taxation Code is amended to read:

32258. (a) Under regulations prescribed by the board, if:

(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse.

(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether ~~or not~~ the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax ~~(including, including interest, penalties, and other amounts)~~ *amounts*, to the extent that the liability is attributable to that understatement or nonpayment of tax.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to ~~the provisions of this part~~, but shall not apply to ~~any~~ a calendar month, quarter, or year that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), “reason to know” means whether ~~or not~~ a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, “attributable to one spouse” may be determined by whether a spouse rendered substantial service as a manufacturer, ~~wine-grower~~ *winegrower*, importer, or seller of beer or wine, or as a manufacturer, distilled spirits manufacturer’s agent, brandy manufacturer, rectifier, wholesaler, or seller of distilled spirits to which the understatement is attributable. If neither spouse rendered substantial services as a manufacturer, ~~wine-grower~~ *winegrower*, importer, or seller of beer or wine, or as a manufacturer, distilled spirits manufacturer’s agent, brandy manufacturer, rectifier, wholesaler, or seller of distilled spirits, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for ~~any~~ an unpaid tax or any deficiency ~~(or, or any portion of either)~~ *either*; attributable to ~~any~~ an item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to ~~the effective date of this section~~ *January 1, 2008*.

1 SEC. 204. Section 41007 of the Revenue and Taxation Code  
2 is amended to read:

3 41007. (a) “Service supplier” shall mean~~any~~ *a* person  
4 supplying intrastate telephone communication services pursuant  
5 to California intrastate tariffs to~~any~~ *a* service user in this state.

6 (b) On and after January 1, 1988, “service supplier” also includes  
7 ~~any~~ *a* person supplying intrastate telephone~~communication~~  
8 *communications* services for whom the Public Utilities  
9 Commission, by rule or order, modifies or eliminates the  
10 requirement for that person to prepare and file California intrastate  
11 tariffs.

12 SEC. 205. Section 41011 of the Revenue and Taxation Code  
13 is amended to read:

14 41011. (a) “Charges for services” means all charges billed by  
15 a service supplier to a service user for intrastate telephone  
16 ~~communications~~ *communication* services and shall mean local  
17 telephone service and include monthly service flat-rate charges  
18 for usage, message unit charges and shall mean toll charges, and  
19 include intra-state-wide area telephone service charges. “Charges  
20 for services” shall not include~~any~~ *a* tax imposed by the United  
21 States or by any charter city, charges for service paid by inserting  
22 coins in a public coin-operated telephone, and shall not apply to  
23 amounts billed to nonsubscribers for coin shortages.~~Where~~ *If* a  
24 coin-operated telephone service is furnished for a guarantee or  
25 other periodic amount,~~such~~ *that* amount is subject to the surcharge  
26 imposed by this part.

27 (b) “Charges for services” shall not include charges for intrastate  
28 toll calls~~where~~ *if* bills for~~such~~ *those* calls originate out of  
29 California.

30 (c) “Charges for services” shall not include charges for~~any~~ *a*  
31 nonrecurring, installation, service connection or one-time charge  
32 for service or directory advertising, and shall not include private  
33 communication service charges, charges for other than  
34 ~~communications~~ *communication* service, or~~any~~ *a* charge made by  
35 a hotel or motel for service rendered in placing calls for its guests  
36 regardless of how~~such~~ *that* hotel or motel charge is denominated  
37 or characterized by an applicable tariff of the Public Utilities  
38 Commission of this state.

39 (d) “Charges for services” shall not include charges for basic  
40 exchange line service for lifeline services.

1 SEC. 206. Section 41021 of the Revenue and Taxation Code  
2 is amended to read:

3 41021. ~~Every~~(a) A service supplier shall collect the surcharge  
4 from each service user at the time it collects its billings from the  
5 service user, provided; *that* the duty to collect the surcharge from  
6 a service user shall commence with the beginning of the first  
7 regular billing period applicable to that person which starts on or  
8 after the operative date of the surcharge imposed by this part. If  
9 the stations or lines of more than one service supplier are utilized  
10 in furnishing the telephone~~communications~~ *communication*  
11 services to the service user, the service supplier that bills the  
12 customer shall collect the surcharge from the customer.

13 (b) Only one payment under this part shall be required with  
14 respect to the surcharge on ~~any~~ a service, notwithstanding that the  
15 lines or stations of one or more service suppliers are used in  
16 furnishing ~~such~~ *that* service.

17 SEC. 207. Section 41030 of the Revenue and Taxation Code  
18 is amended to read:

19 41030. The Department of General Services shall determine  
20 annually, on or before October 1, a surcharge rate that it estimates  
21 will produce sufficient revenue to fund the current fiscal year's  
22 911 costs. The surcharge rate shall be determined by dividing the  
23 costs ~~(including, including incremental costs)~~ *costs*, the Department  
24 of General Services estimates for the current fiscal year of 911  
25 plans approved pursuant to Section 53115 of the Government  
26 Code, less the available balance in the State Emergency Telephone  
27 Number Account in the General Fund, by its estimate of the charges  
28 for intrastate telephone~~communications~~ *communication* services  
29 to which the surcharge will apply for the period of January 1 to  
30 December 31 of the next succeeding calendar year, but in no event  
31 shall ~~such~~ *the* surcharge rate in any year be greater than  
32 three-quarters of 1 percent nor less than one-half of 1 percent.

33 SEC. 208. Section 41099 of the Revenue and Taxation Code  
34 is amended to read:

35 41099. (a) Under regulations prescribed by the board, if:

36 (1) A surcharge liability under this part was understated by a  
37 failure to file a return required to be filed under this part, by the  
38 omission of an amount properly includable therein, or by erroneous  
39 deductions or credits claimed on a return, and the understatement  
40 of surcharge liability is attributable to one spouse; or any amount

1 of the surcharge reported on a return was unpaid and the  
2 nonpayment of the reported surcharge liability is attributable to  
3 one spouse.

4 (2) The other spouse establishes that he or she did not know of,  
5 and had no reason to know of, that understatement or nonpayment.

6 (3) Taking into account whether ~~or not~~ the other spouse  
7 significantly benefited directly or indirectly from the  
8 understatement or the nonpayment and taking into account all other  
9 facts and circumstances, it is inequitable to hold the other spouse  
10 liable for the deficiency in surcharge attributable to that  
11 understatement or nonpayment, then the other spouse shall be  
12 relieved of liability for the surcharge ~~(including, including~~ interest,  
13 penalties, and other ~~amounts)~~ *amounts*, to the extent that the  
14 liability is attributable to that understatement or nonpayment of  
15 the surcharge.

16 (b) For purposes of this section, the determination of the spouse  
17 to whom items of understatement or nonpayment are attributable  
18 shall be made without regard to community property laws.

19 (c) This section shall apply to all calendar months, quarters, or  
20 years subject to the provisions of this part, but shall not apply to  
21 ~~any~~ a calendar month, quarter, or year that is more than five years  
22 from the final date on the board-issued determination, five years  
23 from the return due date for nonpayment on a return, or one year  
24 from the first contact with the spouse making a claim under this  
25 section; or that has been closed by res judicata, whichever is later.

26 (d) For purposes of paragraph (2) of subdivision (a), “reason to  
27 know” means whether ~~or not~~ a reasonably prudent person would  
28 have had reason to know of the understatement or nonpayment.

29 (e) For purposes of this section, with respect to a failure to file  
30 a return or an omission of an item from the return, “attributable to  
31 one spouse” may be determined by whether a spouse rendered  
32 substantial service as a service supplier of intrastate telephone  
33 ~~communications~~ *communication* services to service users or as a  
34 user of intrastate telephone communication services to which the  
35 understatement is attributable. If neither spouse rendered substantial  
36 services as a service supplier or as a service user, then the  
37 attribution of applicable items of understatement shall be treated  
38 as community property. An erroneous deduction or credit shall be  
39 attributable to the spouse who caused that deduction or credit to  
40 be entered on the return.



(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for ~~any~~ *an* unpaid surcharge or ~~any~~ deficiency ~~(or, or any portion of either)~~ *either*, attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to ~~the effective date of this section~~ *January 1, 2008*.

SEC. 209. Section 118 of the Streets and Highways Code is amended to read:

118. (a) ~~Whenever~~ *If* the department determines that ~~any~~ real property or *an* interest therein, previously or hereafter acquired by the state for highway purposes, is no longer necessary for those purposes, the department may sell, contract to sell, sell by trust deed, or exchange the real property or interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in ~~any~~ *a* contract of sale or sale by trust deed shall not extend longer than 10 years from the time the contract of sale or trust deed is executed, and ~~any~~ *a* transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except as follows:

(1) ~~In the case of~~ *For* improved and unimproved real property sold or exchanged for the purpose of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the payment period ~~may~~ *shall* not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for persons and families of ~~low-~~ *low* or ~~moderate-income~~ *moderate income* shall bear interest. The rate of interest for ~~any~~ *such* the contract or sale shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the payment is made.

1 The contract of sale and sales by trust deeds shall not be utilized  
2 if the proposed development or sale qualifies for financing from  
3 other sources and if the financing makes feasible the provision of  
4 low- and moderate-income housing.

5 (2) ~~All improved~~ *Improved* residential property sold to a local  
6 public agency pursuant to paragraph (1), if subsequently sold or  
7 transferred to a nonprofit housing organization, shall have the  
8 endorsement of the city in which the parcels are located, or the  
9 county if the parcels are located in an unincorporated area, that  
10 the housing shall remain at affordable housing costs to persons  
11 and families of ~~low- low or moderate-income~~ *moderate income*  
12 and very low income households for the longest feasible time, but  
13 for not less than 15 years, as determined by the city or county, as  
14 ~~the case may be applicable~~. By endorsing ~~such a~~ *the* sale, the city  
15 or county accepts the responsibility of ensuring the housing remains  
16 affordable. The local public agency shall record in the office of  
17 the county recorder, covenants or restrictions implementing this  
18 subdivision. Notwithstanding any other provision of law, the  
19 covenants or restrictions shall run with the land and shall be  
20 enforceable against the original purchaser from the department  
21 and successors in interest.

22 (b) ~~Any~~ A conveyance under this section shall be approved by  
23 the commission and shall be executed on behalf of the state by the  
24 director and the purchase price shall be paid into the State Treasury  
25 to the credit of any fund, available to the department for highway  
26 purposes, which the commission designates.

27 (c) Any such real property or interest therein may in like manner  
28 be exchanged, either as whole or part consideration, for any other  
29 real property or interest therein needed for state highway purposes.

30 SEC. 210. Section 464 of the Streets and Highways Code is  
31 amended to read:

32 464. (a) Route 164 is Rosemead Boulevard from:

33 (1) Gallatin Road near Pico Rivera to the northern city limit of  
34 Temple City in the vicinity of Callita Street and Sultana Avenue.

35 (2) The northern city limit of Temple City in the vicinity of  
36 Callita Street and Sultana Avenue to the southern city limit of the  
37 City of Pasadena.

38 (b) (1) Notwithstanding subdivision (a), the commission may  
39 relinquish to the County of Los Angeles that portion of Route 164  
40 described in paragraph (2) of subdivision (a), pursuant to the terms

1 of a cooperative agreement between the county and the department,  
2 upon a determination by the commission that the relinquishment  
3 is in the best interests of the state.

4 (2) A relinquishment under this subdivision shall become  
5 effective immediately following the recordation by the county  
6 recorder of the relinquishment resolution containing the  
7 commission's approval of the terms and conditions of the  
8 relinquishment.

9 (3) On and after the effective date of the relinquishment, both  
10 of the following shall apply:

11 (A) The portion of Route 164 relinquished under this subdivision  
12 shall cease to be a state highway.

13 (B) The portion of Route 164 relinquished under this subdivision  
14 ~~may~~ shall not be considered for future adoption under Section 81.

15 (4) For the portion of Route 164 that is relinquished under this  
16 subdivision, the County of Los Angeles shall maintain within its  
17 jurisdiction signs directing motorists to the continuation of Route  
18 164.

19 (c) (1) Notwithstanding subdivision (a), the commission may  
20 relinquish to the City of Temple City the portion of Route 164  
21 located within the city limits of that city pursuant to the terms of  
22 a cooperative agreement between the ~~county~~ city and the  
23 department, upon a determination by the commission that the  
24 relinquishment is in the best interests of the state.

25 (2) A relinquishment under this subdivision shall become  
26 effective immediately following the recordation by the county  
27 recorder of the relinquishment resolution containing the  
28 commission's approval of the terms and conditions of the  
29 relinquishment.

30 (3) On and after the effective date of the relinquishment, both  
31 of the following shall apply:

32 (A) The portion of Route 164 relinquished under this subdivision  
33 shall cease to be a state highway.

34 (B) The portion of Route 164 relinquished under this subdivision  
35 ~~may~~ shall not be considered for future adoption under Section 81.

36 (4) For the portion of Route 164 that is relinquished under this  
37 subdivision, the City of Temple City shall maintain within its  
38 jurisdiction signs directing motorists to the continuation of Route  
39 164.

1 SEC. 211. Section 25440 of the Streets and Highways Code  
2 is amended to read:

3 25440. Funding bonds issued pursuant to the provisions of this  
4 chapter shall be in substantially the following form (filling in  
5 blanks as appropriate):

6 FUNDING BOND

7 Joint Highway District No. \_\_\_\_ of the State of California

8  
9 \$\_\_\_\_ Bond No. \_\_\_\_ Serial \_\_\_\_.

10 Under and by virtue of Part 1 (*commencing with Section 25000*)  
11 of Division 16 of the Streets and Highways Code the treasurer of  
12 Joint Highway District No. \_\_\_\_ of the State of California will  
13 pay to the bearer, out of the fund hereinafter designated, at the  
14 office of the treasurer of said district, on the \_\_\_\_ day of \_\_\_\_,  
15 ~~19~~ 20\_\_, the sum of \_\_\_\_ dollars, in lawful money of the United  
16 States of America, with interest thereon in like lawful money at  
17 the rate of \_\_\_\_ per cent per annum, payable semiannually on the  
18 second day of January and the second day of July in each year  
19 from the date hereof (except the last installment thereof, which  
20 shall be payable at the maturity of this bond), upon presentation  
21 and surrender, as they respectively become due, of the proper  
22 interest coupons hereto attached, the first of which is for interest  
23 from date hereof to the next date of interest payment, and the last  
24 for interest to maturity hereof from the last preceding date of  
25 interest payment. This bond is issued under and in conformity with  
26 the provisions of ~~the above mentioned~~ Part 1 (*commencing with*  
27 *Section 25000*) of Division 16 of the Streets and Highways Code,  
28 and is one of a series of bonds of like date and effect numbered  
29 from one to \_\_\_\_ consecutively. It is hereby certified, recited, and  
30 declared that all proceedings, acts, and things required by law  
31 precedent to or in the issuance of this bond have been regularly  
32 had, done, and performed, and this bond is by law made conclusive  
33 evidence thereof.

34 This bond is payable out of the "Joint Highway District No. \_\_\_\_  
35 of the State of California Funding Bond Redemption Fund,"  
36 exclusively, as the same appears upon the books of the treasurer  
37 of ~~said~~ that district, and in accordance with the provisions of Part  
38 1 (*commencing with Section 25000*) of Division 16 of the Streets  
39 and Highways Code special assessment taxes will be levied and  
40 collected upon the lands within Funding District No. \_\_\_\_ in ~~said~~

1 *that* joint highway district in an amount clearly sufficient to pay  
2 the principal and interest of ~~said the~~ bonds as ~~same shall the~~ bonds  
3 become due and payable.

4 In witness whereof the board of directors of ~~said the~~ district has  
5 caused this bond to be signed by the treasurer of ~~said the~~ district  
6 attested by the secretary of ~~said the~~ board and the official seal of  
7 ~~said the~~ district to be affixed hereto this \_\_\_\_ day of \_\_\_\_, ~~19-~~  
8 ~~20~~\_\_.

10 \_\_\_\_\_  
11 (SEAL) Treasurer of Joint Highway District

12 No. \_\_\_\_ of the State of California.

13 Attest:

14 \_\_\_\_\_  
15 Secretary of the Board of Directors.

16 SEC. 212. Section 36622 of the Streets and Highways Code  
17 is amended to read:

18 36622. The management district plan shall contain all of the  
19 following:

20 (a) A map of the district in sufficient detail to locate each parcel  
21 of property and, if businesses are to be assessed, each business  
22 within the district.

23 (b) The name of the proposed district.

24 (c) A description of the boundaries of the district, including the  
25 boundaries of ~~any~~ benefit zones, proposed for establishment or  
26 extension in a manner sufficient to identify the affected lands and  
27 businesses included. ~~Under no circumstances shall the~~ *The*  
28 boundaries of a proposed property assessment district *shall not*  
29 overlap with the boundaries of another existing property assessment  
30 district created pursuant to this part. ~~Nothing in this part prohibits~~  
31 *This part does not prohibit* the boundaries of a district created  
32 pursuant to this part to overlap with other assessment districts  
33 established pursuant to other provisions of law, including, but not  
34 limited to, the Parking and Business Improvement Area Law of  
35 1989 (Part 6 (commencing with Section 36500)). ~~Nothing in this~~  
36 ~~part prohibits~~ *This part does not prohibit* the boundaries of a  
37 business assessment district created pursuant to this part to overlap  
38 with another business assessment district created pursuant to this  
39 part. ~~Nothing in this part prohibits~~ *This part does not prohibit* the  
40 boundaries of a business assessment district created pursuant to

1 this part to overlap with a property assessment district created  
2 pursuant to this part.

3 (d) The improvements and activities proposed for each year of  
4 operation of the district and the maximum cost thereof.

5 (e) The total annual amount proposed to be expended for  
6 improvements, maintenance and operations, and debt service in  
7 each year of operation of the district.

8 (f) The proposed source or sources of financing, including the  
9 proposed method and basis of levying the assessment in sufficient  
10 detail to allow each property or business owner to calculate the  
11 amount of the assessment to be levied against his or her property  
12 or business. The plan *also* shall ~~also~~ state whether bonds will be  
13 issued to finance improvements.

14 (g) The time and manner of collecting the assessments.

15 (h) The specific number of years in which assessments will be  
16 levied. In a new district, the maximum number of years shall be  
17 five. Upon renewal, a district shall have a term not to exceed 10  
18 years. Notwithstanding these limitations, a district created pursuant  
19 to this part to finance capital improvements with bonds may levy  
20 assessments until the maximum maturity of the bonds. The  
21 management district plan may set forth specific increases in  
22 assessments for each year of operation of the district.

23 (i) The proposed time for implementation and completion of  
24 the management district plan.

25 (j) Any proposed rules and regulations to be applicable to the  
26 district.

27 (k) A list of the properties or businesses to be assessed, including  
28 the assessor's parcel numbers for ~~any~~ properties to be assessed,  
29 and a statement of the method or methods by which the expenses  
30 of a district will be imposed upon benefited real property or  
31 businesses, in proportion to the benefit received by the property  
32 or business, to defray the cost thereof, including operation and  
33 maintenance. The plan may provide that all or any class or category  
34 of real property which is exempt by law from real property taxation  
35 may nevertheless be included within the boundaries of the district  
36 but shall not be subject to assessment on real property.

37 (l) Any other item or matter required to be incorporated therein  
38 by the city council.

39 SEC. 213. Section 2739 of the Unemployment Insurance Code  
40 is amended to read:

1     2739. The Director of Employment Development, subject to  
2 this article, may do any or all of the following in the recovery of  
3 overpayments of disability benefits:

4     (a) File a civil action against the liable person for the recovery  
5 of the amount of the overpayment within one year after any of the  
6 following, or, in cases where the individual has been overpaid  
7 benefits due to fraud, misrepresentation, or nondisclosure as  
8 described in Section 2735.1, within three years of any of the  
9 following:

10     (1) The mailing or personal service of the notice of overpayment  
11 determination if the person affected does not file an appeal to an  
12 administrative law judge.

13     (2) The mailing of the decision of the administrative law judge  
14 if the person affected does not initiate a further appeal to the  
15 appeals board.

16     (3) The date of the decision of the appeals board.

17     (b) Initiate proceedings for a summary judgment against the  
18 liable person. However, this subdivision applies only where the  
19 director has found, pursuant to Section 2735, that the overpayment  
20 ~~may~~ *shall* not be waived because it was due to fraud,  
21 misrepresentation, or willful nondisclosure on the part of the  
22 recipient. The director may, not later than three years after the  
23 overpayment became final, file with the clerk of the proper court  
24 in the county in which the claimant resides, a certificate containing  
25 all of the following:

26     (1) The amount due, including the assessment made under  
27 Section 2735.1, plus interest from the date that the initial  
28 determination of overpayment was made pursuant to Section 2735.

29     (2) A statement that the director has complied with all of the  
30 provisions of this article prior to the filing of the certificate.

31     (3) A request that judgment be entered against the liable person  
32 in the amount set forth in the certificate.

33     The clerk, immediately upon filing of the certificate, shall enter  
34 a judgment for the State of California against the liable person in  
35 the amount set forth in the certificate.

36     For purposes of this ~~subdivision~~ *subdivision* only, an overpayment  
37 is final and due and payable after one of the following:

38     (A) The liable person has not filed an appeal pursuant to Section  
39 2737.

1 (B) The liable person has filed an appeal to ~~the~~ *an* administrative  
2 law judge and a decision of ~~an~~ *the* administrative law judge  
3 upholding the overpayment has become final.

4 (C) The liable person has filed an appeal to the appeals board  
5 and the decision of the appeals board upholding the overpayment  
6 has become final because the liable person has not sought judicial  
7 review within the ~~six-month~~ *six-month* period provided by Section  
8 410.

9 (c) Reduce or vacate a summary judgment by filing a certificate  
10 to that ~~affect~~ *effect* with the clerk of the proper court.

11 (d) Offset the amount of the overpayment received by the liable  
12 person against any amount of disability benefits to which he or  
13 she may become entitled under this division within six years of  
14 the date of mailing or personal service of the notice of overpayment  
15 determination.

16 SEC. 214. Section 1803 of the Vehicle Code, as amended by  
17 Chapter 747 of the Statutes of 2007, is amended to read:

18 1803. (a) (1) The clerk of a court in which a person was  
19 convicted of a violation of this code, was convicted of a violation  
20 of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the  
21 Harbors and Navigation Code pertaining to a mechanically  
22 propelled vessel but not to manipulating any water skis, an  
23 aquaplane, or similar device, was convicted of a violation of  
24 Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation  
25 Code, or a violation of subdivision (a) of Section 192.5 of the Penal  
26 Code, was convicted of an offense involving use or possession of  
27 controlled substances under Division 10 (commencing with Section  
28 11000) of the Health and Safety Code, was convicted of a felony  
29 offense when a commercial motor vehicle, as defined in subdivision  
30 (b) of Section 15210, was involved in or incidental to the  
31 commission of the offense, or was convicted of a violation of any  
32 other statute relating to the safe operation of vehicles, shall prepare  
33 within 10 days after conviction and immediately forward to the  
34 department at its office ~~at~~ *in* Sacramento an abstract of the record  
35 of the court covering the case in which the person was so convicted.  
36 If sentencing is not pronounced in conjunction with the conviction,  
37 the abstract shall be forwarded to the department within 10 days  
38 after sentencing and the abstract shall be certified by the person  
39 ~~so~~ required to prepare it to be true and correct.



1 (2) For the purposes of this section, a forfeiture of bail shall be  
2 equivalent to a conviction.

3 (b) The following violations are not required to be reported  
4 under subdivision (a):

5 (1) Division 3.5 (commencing with Section 9840).

6 (2) Section 21113, with respect to parking violations.

7 (3) Chapter 9 (commencing with Section 22500) of Division  
8 11, except Section 22526.

9 (4) Division 12 (commencing with Section 24000), except  
10 Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103,  
11 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3  
12 (commencing with Section 26301).

13 (5) Division 15 (commencing with Section 35000), except  
14 Chapter 5 (commencing with Section 35550).

15 (6) Violations for which a person was cited as a pedestrian or  
16 while operating a bicycle or a motorized scooter.

17 (7) Division 16.5 (commencing with Section 38000), except  
18 Section 38301.3.

19 (8) Subdivision (b) of Section 23221, subdivision (b) of Section  
20 23223, subdivision (b) of Section 23225, and subdivision (b) of  
21 Section 23226.

22 (c) If the court impounds a license, or orders a person to limit  
23 his or her driving pursuant to subdivision (d) of Section 40508,  
24 the court shall notify the department concerning the impoundment  
25 or limitation on an abstract prepared pursuant to subdivision (a)  
26 of this section or on a separate abstract, that shall be prepared  
27 within 10 days after the impoundment or limitation was ordered  
28 and immediately forwarded to the department at its office in  
29 Sacramento.

30 (d) If the court determines that a prior judgment of conviction  
31 of a violation of Section 23152 or 23153 is valid or is invalid on  
32 constitutional grounds pursuant to Section 41403, the clerk of the  
33 court in which the determination is made shall prepare an abstract  
34 of that determination and forward it to the department in the same  
35 manner as an abstract of record pursuant to subdivision (a).

36 (e) Within 10 days of an order terminating or revoking probation  
37 under Section 23602, the clerk of the court in which the order  
38 terminating or revoking probation was entered shall prepare and  
39 immediately forward to the department at its office in Sacramento  
40 an abstract of the record of the court order terminating or revoking

1 probation and any other order of the court to the department  
2 required by law.

3 (f) This section shall remain in effect only until October 1, 2008,  
4 and as of that date is repealed, unless a later enacted statute, that  
5 is enacted before October 1, 2008, deletes or extends that date.

6 SEC. 215. Section 2430.1 of the Vehicle Code is amended to  
7 read:

8 2430.1. As used in this article, each of the following terms has  
9 the following meaning:

10 (a) "Tow truck driver" means a person who operates a tow truck,  
11 who renders towing service or emergency road service to motorists  
12 while involved in freeway service patrol operations, pursuant to  
13 an agreement with a regional or local entity, and who has or will  
14 have direct and personal contact with the individuals being  
15 transported or assisted. As used in this subdivision, "towing  
16 service" and "emergency road service" have *has* the same meaning  
17 as defined in Section 2436.

18 (b) "Employer" means ~~any~~ *a* person or organization that employs  
19 those persons defined in subdivision (a), or who is an  
20 owner-operator who performs the activity specified in subdivision  
21 (a), and who is involved in freeway service patrol operations  
22 pursuant to an agreement or contract with a regional or local entity.

23 (c) "Regional or local entity" means ~~any~~ *a* public organization  
24 established as a public transportation planning entity pursuant to  
25 Title 7.1 (commencing with Section 66500) of the Government  
26 Code or authorized to impose a transaction and use tax for  
27 transportation purposes by the Public Utilities Code or the service  
28 authority for freeway emergencies described in Section 2551 of  
29 the Streets and Highways Code.

30 (d) "Emergency road service" has the same meaning as defined  
31 in Section 2436.

32 (e) "Freeway service patrol" has the same meaning as defined  
33 in Section 2561 of the Streets and ~~Highway~~ *Highways* Code.

34 SEC. 216. Section 4766 of the Vehicle Code is amended to  
35 read:

36 4766. (a) Except as provided in subdivisions (b) and (c), the  
37 department shall refuse to renew the registration of a vehicle for  
38 which a notice of noncompliance has been transmitted to the  
39 department pursuant to subdivision (a) of Section 40002.1 if no  
40 certificate of adjudication has been received by the department

pursuant to subdivision (b) of that section. The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of citations for which notices of noncompliance have been received by the department pursuant to subdivision (a) of Section 40002.1. The itemization shall include the citation number, citation date, and the jurisdiction that issued the underlying notice pursuant to Section 40002 and the administrative service fee for clearing the offense pursuant to subdivision (b) of this section.

(b) Upon application for renewal of vehicle registration for a vehicle subject to subdivision (a), the department shall not refuse registration renewal pursuant to subdivision (a) if the applicant, with respect to each outstanding certificate of noncompliance, has performed both of the following:

(1) Provides the department with a certificate of adjudication for the offense issued pursuant to subdivision (b) of Section ~~40002~~ ~~± 40002.1~~.

(2) Pays an administrative service ~~charge~~ *fee*, which shall be established by the department to, in the aggregate, defray its costs in administering this section.

(c) Whenever registration of a vehicle subject to subdivision (a) is transferred or not renewed for two renewal periods, the department shall ~~so~~ notify each court ~~which~~ *that* transmitted a notice of noncompliance affecting the vehicle *of the transfer of, or lack of renewal of, the registration* and the department shall not thereafter refuse registration renewal pursuant to subdivision (a).

SEC. 217. Section 5004.1 of the Vehicle Code, as amended by Section 1 of Chapter 497 of the Statutes of 2007, is amended to read:

~~5004.1. (a) (1) Subject to paragraph (3), an~~ An owner of a vehicle that is a 1969 or older model-year vehicle or the owner of a commercial vehicle or a pickup truck that is a 1972 or older model-year may, after the requirements for the registration of the vehicle are complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model-year date when the vehicle was manufactured, if the model-year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code.

(2) The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate corresponds to the model-year date when the vehicle was manufactured.

(b) A fee of forty-five dollars (\$45) shall be charged for the application for the use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars (\$10). ~~When~~ *If* payment of a regular vehicle renewal fee is not required by this code, the holder of license plates with a date corresponding to the model-year may retain the plates upon payment of an annual fee of twenty dollars (\$20); that shall be due at the expiration of the registration year of the vehicle to which the plates were last assigned under this section.

(d) ~~Whenever~~ *If* a person who is authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars (\$12) shall be charged in addition to all other appropriate fees.

SEC. 218. Section 9853.6 of the Vehicle Code is amended to read:

9853.6. (a) (1) Beginning July 1, 2008, the fee described in paragraph (1) of subdivision (b) of Section 9853 shall be increased by ten dollars (\$10).

(2) Five dollars (\$5) of the increase shall be deposited into the Alternative and Renewable Fuel and Vehicle Technology Fund created by Section 44273 of the Health and Safety Code and five dollars (\$5) shall be deposited into the Air Quality Improvement Fund created by Section 44274.5 of the Health and Safety Code.

(b) (1) Beginning July 1, 2008, the fee described in paragraph (2) of subdivision (b) of Section 9853 shall be increased by twenty dollars (\$20).

(2) Ten dollars (\$10) of the increase shall be deposited into the Alternative and Renewable Fuel and Vehicle Technology Fund created by Section 44273 of the Health and Safety Code and ten dollars (\$10) shall be deposited into the Air Quality Improvement Fund created by Section 44274.5 of the Health and Safety Code.

~~(b)~~

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 219. Section 11410 of the Vehicle Code is amended to read:

11410. (a) Every license issued under this chapter is valid for a period of one year from the last day of the month of issuance. Except as provided in ~~subdivision~~ *subdivision* (c), renewal of the license for the ensuing year may be obtained by the person to whom the license was issued upon application to the department and payment of the fee required by Section 11409.

(b) ~~Every~~ *An* application for the renewal of a license shall be made by the licensee not more than 90 days prior to the expiration date and shall be made by presenting the completed application form provided by the department and by payment of the renewal fee.

(c) If the application for renewal of the license is not made by midnight of the expiration date, the application may be made within 30 days following expiration of the license by paying the annual renewal fee and a penalty fee equal to the amount of the original application fee for each license held.

(d) A licensee ~~may~~ *shall* not renew the license after the expiration of the 30-day period specified in subdivision (c).

SEC. 220. Section 13353.2 of the Vehicle Code, as amended by Section 2 of Chapter 749 of the Statutes of 2007, is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of a person to operate a motor vehicle for any one of the following reasons:

(1) The person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(2) The person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or other chemical test.

(3) The person was driving a vehicle that requires a commercial driver's license when the person had ~~a~~ 0.04 percent or more, by weight, of alcohol in his or her blood.

(4) The person was driving a motor vehicle when both of the following ~~apply~~ *applied*:

1 (A) The person was on probation for a violation of Section  
2 23152 or 23153.

3 (B) The person had ~~a~~ 0.01 percent or more, by weight, of alcohol  
4 in his or her blood, as measured by a preliminary alcohol screening  
5 test or other chemical test.

6 (b) The notice of the order of suspension under this section shall  
7 be served on the person by a peace officer pursuant to Section  
8 *13382 or 13388* ~~or 13382~~. The notice of the order of suspension  
9 shall be on a form provided by the department. If the notice of the  
10 order of suspension has not been served upon the person by the  
11 peace officer pursuant to Section *13382 or 13388* ~~or 13382~~, upon  
12 the receipt of the report of a peace officer submitted pursuant to  
13 Section 13380, the department shall mail written notice of the  
14 order of the suspension to the person at the last known address  
15 shown on the department's records and, if the address of the person  
16 provided by the peace officer's report differs from the address of  
17 record, to that address.

18 (c) The notice of the order of suspension shall ~~clearly~~ specify  
19 *clearly* the reason and statutory grounds for the suspension, the  
20 effective date of the suspension, the right of the person to request  
21 an administrative hearing, the procedure for requesting an  
22 administrative hearing, and the date by which a request for an  
23 administrative hearing shall be made in order to receive a  
24 determination prior to the effective date of the suspension.

25 (d) The department shall make a determination of the facts in  
26 subdivision (a) on the basis of the report of a peace officer  
27 submitted pursuant to Section 13380. The determination of the  
28 facts, after administrative review pursuant to Section 13557, by  
29 the department is final, unless an administrative hearing is held  
30 pursuant to Section 13558 and any judicial review of the  
31 administrative determination after the hearing pursuant to Section  
32 13559 is final.

33 (e) The determination of the facts in subdivision (a) is a civil  
34 matter that is independent of the determination of the person's  
35 guilt or innocence, shall have no collateral estoppel effect on a  
36 subsequent criminal prosecution, and shall not preclude the  
37 litigation of the same or similar facts in the criminal proceeding.  
38 If a person is acquitted of criminal charges relating to a  
39 determination of facts under subdivision (a), or if the person's  
40 driver's license was suspended pursuant to Section 13388 and the

department finds no basis for a suspension pursuant to that section, the department shall immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall return or reissue for the remaining term any driver's license that has been taken from the person pursuant to Section 13382 or otherwise. Notwithstanding subdivision (b) of Section 13558, if criminal charges under Section 23140, 23152, or 23153 are not filed by the district attorney because of a lack of evidence, or if those charges are filed but are subsequently dismissed by the court because of an insufficiency of evidence, the person has a renewed right to request an administrative hearing before the department. The request for a hearing shall be made within one year from the date of arrest.

(f) The department shall furnish a form that requires a detailed explanation specifying which evidence was defective or lacking and detailing why that evidence was defective or lacking. The form shall be made available to the person to provide to the district attorney. The department shall hold an administrative hearing, and the hearing officer shall consider the reasons for the failure to prosecute given by the district attorney on the form provided by the department. If applicable, the hearing officer shall consider the reasons stated on the record by a judge who dismisses the charges. A fee shall not be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect an action to suspend or revoke the person's privilege to operate a motor vehicle under another provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 221. Section 21251 of the Vehicle Code is amended to read:

21251. Except as provided in Chapter 7 (commencing with Section 1963) and Chapter 8 (commencing with Section 1965) of Division 2 2.5 of the Streets and Highways Code, and Sections 4023, 21115, and 21115.1, a low-speed vehicle is subject to all the provisions applicable to a motor vehicle, and the driver of a low-speed vehicle is subject to all the provisions applicable to the driver of a motor vehicle or other vehicle, when applicable, by this

code or ~~any other~~ *another* code, with the exception of those provisions ~~which~~ *that*, by their very nature, can have no application.

SEC. 222. Section 22511.85 of the Vehicle Code is amended to read:

22511.85. A vehicle, identified with a special license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59, which is equipped with a lift, ramp, or assistive equipment that is used for the loading and unloading of a person with a disability may park in not more than two adjacent stalls or spaces on a street or highway or in a public or private off-street parking facility if the equipment has been or will be used for loading or unloading a person with a disability, and if there is no single parking space immediately available on the street or highway or within the facility that is suitable for that purpose, including, but not limited to, when there is not sufficient space to operate a vehicle lift, ramp, or assistive equipment, or there is not sufficient room for a person with a disability to exit the vehicle or maneuver once outside the vehicle.

SEC. 223. Section 24617 of the Vehicle Code is amended to read:

24617. (a) A transit bus may be authorized to be equipped with a yield right-of-way sign on the left rear of the bus. The yield right-of-way sign may flash simultaneously with the rear turn signal lamps, but is not required to do so. The sign shall be both of the following:

(1) Designed to warn a person operating a motor vehicle approaching the rear of the bus that the bus is entering traffic.

(2) Illuminated by a red flashing light when the bus is signaling in preparation for entering a traffic lane after having stopped to receive or discharge passengers.

~~(b) Nothing in this section requires~~ *This section does not require* a transit agency to install the yield right-of-way sign described in subdivision (a).

(c) This section does not relieve the driver of a transit bus from the duty to drive the bus with due regard for the safety of all persons and property. This section does not exempt the driver of a transit bus from ~~the requirements of~~ Section 21804.

(d) This section applies only to the Santa Cruz Metropolitan Transit District and the Santa Clara Valley Transportation Authority, if the governing board of the applicable ~~district~~ *entity*



1 approves a resolution, after a public hearing on the issue, requesting  
2 that this section be made applicable to it.

3 (e) ~~Each~~A participating transit agency shall undertake a public  
4 education program to encourage motorists to yield to a transit bus  
5 when the sign specified in subdivision (a) is ~~activated~~ *activated*.

6 SEC. 224. Section 27315 of the Vehicle Code is amended to  
7 read:

8 27315. (a) The Legislature finds that a mandatory seatbelt law  
9 will contribute to reducing highway deaths and injuries by  
10 encouraging greater usage of existing manual seatbelts, that  
11 automatic crash protection systems which require no action by  
12 vehicle occupants offer the best hope of reducing deaths and  
13 injuries, and that encouraging the use of manual safety belts is  
14 only a partial remedy for addressing this major cause of death and  
15 injury. The Legislature declares that the enactment of this section  
16 is intended to be compatible with support for federal safety  
17 standards requiring automatic crash protection systems and should  
18 not be used in any manner to rescind federal requirements for  
19 installation of automatic restraints in new cars.

20 (b) This section shall be known and may be cited as the Motor  
21 Vehicle Safety Act.

22 (c) (1) As used in this section, “motor vehicle” means a  
23 passenger vehicle, a motortruck, or a truck tractor, but does not  
24 include a motorcycle.

25 (2) For purposes of this section, a “motor vehicle” also means  
26 ~~any~~ a farm labor vehicle, regardless of the date of certification  
27 under Section 31401.

28 (d) (1) A person ~~may~~ *shall* not operate a motor vehicle on a  
29 highway unless that person and all passengers 16 years of age or  
30 over are properly restrained by a safety belt. This paragraph does  
31 not apply to the operator of a taxicab, as defined in Section 27908,  
32 when the taxicab is driven on a city street and is engaged in the  
33 transportation of a fare-paying passenger. The safety belt  
34 requirement established by this paragraph is the minimum safety  
35 standard applicable to employees being transported in a motor  
36 vehicle. This paragraph does not preempt ~~any~~ more stringent or  
37 restrictive standards imposed by the Labor Code or ~~any other~~  
38 *another* state or federal regulation regarding the transportation of  
39 employees in a motor vehicle.

1 (2) The operator of a limousine for hire or the operator of an  
2 authorized emergency vehicle, as defined in subdivision (a) of  
3 Section 165, ~~may~~ *shall* not operate the limousine for hire or  
4 authorized emergency vehicle unless the operator and any  
5 passengers six years of age or over or weighing 60 pounds or more;  
6 in the front seat are properly restrained by a safety belt.

7 (3) The operator of a taxicab ~~may~~ *shall* not operate the taxicab  
8 unless any passengers six years of age or over or weighing 60  
9 pounds or more; in the front seat are properly restrained by a safety  
10 belt.

11 (e) A person 16 years of age or over ~~may~~ *shall* not be a  
12 passenger in a motor vehicle on a highway unless that person is  
13 properly restrained by a safety belt. This subdivision does not  
14 apply to a passenger in a sleeper berth, as defined in subdivision  
15 ~~(v)~~ (x) of Section 1201 of Title 13 of the California Code of  
16 Regulations.

17 (f) ~~Every~~ *An* owner of a motor vehicle, including ~~every~~ *an* owner  
18 or operator of a taxicab, as defined in Section 27908, or a limousine  
19 for hire, operated on a highway shall maintain safety belts in good  
20 working order for the use of occupants of the vehicle. The safety  
21 belts shall conform to motor vehicle safety standards established  
22 by the United States Department of Transportation. This  
23 subdivision ~~does not~~, however, *does not* require installation or  
24 maintenance of safety belts ~~where~~ *if* not required by the laws of  
25 the United States applicable to the vehicle at the time of its initial  
26 sale.

27 (g) This section does not apply to a passenger or operator with  
28 a physically disabling condition or medical condition ~~which~~ *that*  
29 would prevent appropriate restraint in a safety belt, if the condition  
30 is duly certified by a licensed physician and surgeon or by a  
31 licensed chiropractor who shall state the nature of the condition,  
32 as well as the reason the restraint is inappropriate. This section  
33 also does not apply to a public employee, when in an authorized  
34 emergency vehicle as defined in paragraph (1) of subdivision (b)  
35 of Section 165, or to ~~any~~ *a* passenger in ~~any~~ *a* seat behind the front  
36 seat of an authorized emergency vehicle as defined in paragraph  
37 (1) of subdivision (b) of Section 165 operated by the public  
38 employee, unless required by the agency employing the public  
39 employee.

1 (h) Notwithstanding subdivision (a) of Section 42001, ~~any a~~  
2 violation of subdivision (d), (e), or (f) is an infraction punishable  
3 by a fine of not more than twenty dollars (\$20) for a first offense,  
4 and a fine of not more than fifty dollars (\$50) for each subsequent  
5 offense. In lieu of the fine and any penalty assessment or court  
6 costs, the court, pursuant to Section 42005, may order that a person  
7 convicted of a first offense attend a school for traffic violators or  
8 ~~any other~~ *another* court-approved program in which the proper  
9 use of safety belts is demonstrated.

10 (i) In a civil action, a violation of subdivision (d), (e), or (f) or  
11 information of a violation of subdivision (h) does not establish  
12 negligence as a matter of law or negligence per se for comparative  
13 fault purposes, but negligence may be proven as a fact without  
14 regard to the violation.

15 (j) If the United States Secretary of Transportation fails to adopt  
16 safety standards for manual safety belt systems by September 1,  
17 1989, ~~no a~~ motor vehicle manufactured after that date for sale or  
18 sold in this state shall *not* be registered unless it contains a manual  
19 safety belt system ~~which that~~ meets the performance standards  
20 applicable to automatic crash protection devices adopted by the  
21 *United States* Secretary of Transportation pursuant to Federal  
22 Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) as in  
23 effect on January 1, 1985.

24 (k) ~~Each~~ A motor vehicle offered for original sale in this state  
25 which has been manufactured on or after September 1, 1989, shall  
26 comply with the automatic restraint requirements of Section  
27 S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49  
28 C.F.R. 571.208), as published in Volume 49 of the Federal  
29 Register, No. 138, page 29009. ~~Any An~~ automobile manufacturer  
30 ~~who that~~ sells or delivers a motor vehicle subject to ~~the~~  
31 ~~requirements of~~ this subdivision, and fails to comply with this  
32 subdivision, shall be punished by a fine of not more than five  
33 hundred dollars (\$500) for each sale or delivery of a noncomplying  
34 motor vehicle.

35 (l) Compliance with subdivision (j) or (k) by a manufacturer  
36 shall be made by self-certification in the same manner as  
37 self-certification is accomplished under federal law.

38 (m) This section does not apply to a person actually engaged in  
39 delivery of newspapers to customers along the person's route if

1 the person is properly restrained by a safety belt prior to  
2 commencing and subsequent to completing delivery on the route.

3 (n) This section does not apply to a person actually engaged in  
4 collection and delivery activities as a rural delivery carrier for the  
5 United States Postal Service if the person is properly restrained  
6 by a safety belt prior to stopping at the first box and subsequent  
7 to stopping at the last box on the route.

8 (o) This section does not apply to a driver actually engaged in  
9 the collection of solid waste or recyclable materials along that  
10 driver's collection route if the driver is properly restrained by a  
11 safety belt prior to commencing and subsequent to completing the  
12 collection route.

13 (p) Subdivisions (d), (e), (f), (g), and (h) shall become  
14 inoperative immediately upon the date that the United States  
15 Secretary of Transportation, or his or her delegate, determines to  
16 rescind the portion of the Federal Motor Vehicle Safety Standard  
17 No. 208 (49 C.F.R. 571.208) which requires the installation of  
18 automatic restraints in new motor vehicles, except that those  
19 subdivisions shall not become inoperative if the secretary's decision  
20 to rescind that Standard No. 208 is not based, in any respect, on  
21 the enactment or continued operation of those subdivisions.

22 SEC. 225. Section 40002 of the Vehicle Code is amended to  
23 read:

24 40002. (a) (1) ~~When~~ *If* there is a violation of Section 40001,  
25 an owner or ~~any~~ other person subject to Section 40001, who was  
26 not driving the vehicle involved in the violation, may be mailed a  
27 written notice to appear. An exact and legible duplicate copy of  
28 that notice when filed with the court, in lieu of a verified complaint,  
29 is a complaint to which the defendant may plead ~~"guilty"~~. *"guilty."*

30 (2) If, however, the defendant fails to appear in court or does  
31 not deposit lawful bail, or pleads other than "guilty" of the offense  
32 charged, a verified complaint shall be filed which shall be deemed  
33 to be an original complaint, and thereafter proceedings shall be  
34 had as provided by law, except that a defendant may, by an  
35 agreement in writing, subscribed by the defendant and filed with  
36 the court, waive the filing of a verified complaint and elect that  
37 the prosecution may proceed upon a written notice to appear.

38 (3) A verified complaint pursuant to paragraph (2) shall include  
39 a paragraph that informs the person that unless he or she appears  
40 in the court designated in the complaint within 21 days after being

1 given the complaint and answers the charge, renewal of registration  
2 of the vehicle involved in the offense may be precluded by the  
3 department, or a warrant of arrest may be issued against him or  
4 her.

5 (b) (1) If a person mailed a notice to appear pursuant to  
6 paragraph (1) of subdivision (a) fails to appear in court or deposit  
7 bail, a warrant of arrest shall not be issued based on the notice to  
8 appear, even if that notice is verified. An arrest warrant may ~~only~~  
9 be issued *only* after a verified complaint pursuant to paragraph (2)  
10 of subdivision (a) is given the person and the person fails to appear  
11 in court to answer that complaint.

12 (2) If a person mailed a notice to appear pursuant to paragraph  
13 (1) of subdivision (a) fails to appear in court or deposit bail, the  
14 court may give by mail to the person a notice of noncompliance.  
15 A notice of noncompliance shall include a paragraph that informs  
16 the person that unless he or she appears in the court designated in  
17 the notice to appear within 21 days after being given by mail the  
18 notice of noncompliance and answers the charge on the notice to  
19 appear, or pays the applicable fine and penalties if an appearance  
20 is not required, renewal of registration of the vehicle involved in  
21 the offense may be precluded by the department.

22 (c) A verified complaint filed pursuant to this section shall  
23 conform to Chapter 2 (commencing with Section 948) of Title 5  
24 of Part 2 of the Penal Code.

25 (d) (1) The giving ~~my~~ by mail of a notice to appear pursuant  
26 to paragraph (1) of subdivision (a) or a notice of noncompliance  
27 pursuant to ~~paragraph (2)~~ *paragraph (2)* of subdivision (b) shall  
28 be done in a manner prescribed by Section 22.

29 (2) The verified complaint pursuant to paragraph (2) of  
30 subdivision (a) shall be given in a manner prescribed by Section  
31 22.

32 SEC. 226. Section 40240 of the Vehicle Code is amended to  
33 read:

34 40240. (a) The City and County of San Francisco may install  
35 automated forward facing parking control devices on city-owned  
36 public transit vehicles, as defined by Section 99211 of the Public  
37 Utilities Code, for the purpose of video imaging of parking  
38 violations occurring in transit-only traffic lanes. Citations shall  
39 ~~only~~ be issued *only* for ~~violation~~ *violations* captured during the  
40 posted hours of operation for a transit-only traffic lane. The devices

1 shall be angled and focused so as to capture video images of  
2 parking violations and not unnecessarily capture identifying images  
3 of other drivers, vehicles, and pedestrians.

4 (b) Prior to issuing notices of parking violations pursuant to  
5 subdivision (a) of Section 40241, the City and County of San  
6 Francisco shall commence a program to issue only warning notices  
7 for 30 days. The City and County of San Francisco shall also make  
8 a public announcement of the program at least 30 days prior to  
9 commencement of issuing notices of parking violations.

10 (c) A designated employee of the City and County of San  
11 Francisco, who is qualified by the city and county to issue parking  
12 citations, shall review video image recordings for the purpose of  
13 determining whether a parking violation occurred in a transit-only  
14 traffic lane. A violation of a statute, regulation, or ordinance  
15 governing vehicle parking under this code, under a federal or state  
16 statute or regulation, or under an ordinance enacted by the City  
17 and County of San Francisco occurring in a transit-only traffic  
18 lane observed by the designated employee in the recordings is  
19 subject to a civil penalty.

20 (d) The registered owner shall be permitted to review the video  
21 image evidence of the alleged violation during normal business  
22 hours at no cost.

23 (e) (1) Except as it may be included in court records described  
24 in Section 68152 of the Government Code, or as provided in  
25 paragraph (2), the video image evidence may be retained for up  
26 to six months from the date the information was first obtained, or  
27 60 days after final disposition of the citation, whichever date is  
28 later, after which time the information shall be destroyed.

29 (2) Notwithstanding Section 26202.6 of the Government Code,  
30 video image evidence from forward facing automated enforcement  
31 devices that does not contain evidence of a parking violation  
32 occurring in a transit-only traffic lane shall be destroyed within  
33 15 days after the information was first obtained.

34 (f) Notwithstanding Section 6253 of the Government Code, or  
35 any other provision of law, the video image records are  
36 confidential. Public agencies shall use and allow access to these  
37 records only for the purposes authorized by this article.

38 (g) For the purposes of this article, “local agency” means the  
39 City and County of San Francisco.

(h) For the purposes of this article, “transit-only traffic lane” means any of the designated transit-only lanes that were designated on or before January 1, 2008, on Beach Street, Bush Street, Clay Street, First Street, Fourth Street, Fremont Street, Geary Boulevard, Jefferson Street, Jones Street, Mission Street, Market Street, O’Farrell Street, Post Street, Potrero Street, Sacramento Street, Sansome Street, Stockton Street, Sutter Street, and Third Street.

(i) Video images captured pursuant to this article shall not be transmitted wirelessly.

SEC. 227. Section 8201 of the Water Code is amended to read:

8201. (a) A local agency may prepare a local plan of flood protection in accordance with this chapter.

(b) A local plan of flood protection shall include all of the following:

(1) A strategy to meet the urban level of flood protection, including planning for residual flood risk and system resiliency.

(2) Identification of all types of flood hazards.

(3) Identification and risk assessment of the various facilities that provide flood protection for flood hazard areas, for current and future land uses.

(4) Identification of current and future flood corridors.

(5) Identification of needed improvements and costs of those improvements to the flood protection facilities that are necessary to meet flood protection standards.

(6) An emergency response and evacuation plan for flood-prone areas.

(7) A strategy to achieve multiple benefits, including flood protection, groundwater recharge, ecosystem health, and reduced maintenance costs over the long term.

(8) A long-term funding strategy for improvement and ongoing maintenance and operation of flood protection facilities.

(c) A local agency that is not a city or county that prepares a plan pursuant to this chapter ~~must~~ *shall* consult with the cities and counties that have jurisdiction over the planning area to ~~assure~~ *ensure* that the local plan of flood protection is consistent with local general plans.

(d) Plans prepared pursuant to this chapter, within the Sacramento-San Joaquin Valley as defined by Section 9602, shall be consistent with the Central Valley Flood Protection Plan pursuant to Section ~~9610~~ 9612.

1 SEC. 228. Section 8610.5 of the Water Code, as added by  
2 Section 17 of Chapter 365 of the Statutes of 2007, is repealed.

3 ~~8610.5. (a) (1) The board shall adopt regulations relating to~~  
4 ~~evidentiary hearings pursuant to Chapter 4.5 (commencing with~~  
5 ~~Section 11400) of Part 1 of Division 3 of Title 2 of the Government~~  
6 ~~Code.~~

7 ~~(2) The board shall hold an evidentiary hearing for any matter~~  
8 ~~that requires the issuance of a permit.~~

9 ~~(3) The board is not required to hold an evidentiary hearing~~  
10 ~~before making a decision relating to general flood protection policy~~  
11 ~~or planning.~~

12 ~~(b) The board may take an action pursuant to Section 8560 only~~  
13 ~~after allowing for public comment.~~

14 ~~(c) The board shall, in any evidentiary hearing, consider all of~~  
15 ~~the following, as applicable, for the purpose of taking any action~~  
16 ~~pursuant to Section 8560:~~

17 ~~(1) Evidence that the board admits into its record from any party,~~  
18 ~~state or local public agency, or nongovernmental organization with~~  
19 ~~expertise in flood or floodplain management.~~

20 ~~(2) The best available science that relates to the scientific issues~~  
21 ~~presented by the executive officer, legal counsel, the department,~~  
22 ~~or other parties that raise credible scientific issues.~~

23 ~~(3) Effects of the proposed decision on the entire State Plan of~~  
24 ~~Flood Control.~~

25 ~~(4) Effects of reasonably projected future events, including but~~  
26 ~~not limited to, changes in hydrology, climate, and development~~  
27 ~~within the applicable watershed.~~

28 SEC. 229. Section 8610.5 of the Water Code, as added by  
29 Section 21 of Chapter 366 of the Statutes of 2007, is amended to  
30 read:

31 8610.5. (a) (1) The board shall adopt regulations relating to  
32 evidentiary hearings pursuant to Chapter 4.5 (commencing with  
33 Section 11400) of Part 1 of Division 3 of Title 2 of the Government  
34 Code.

35 (2) The board shall hold an evidentiary hearing for any matter  
36 that requires the issuance of a permit.

37 (3) The board is not required to hold an evidentiary hearing  
38 before making a decision relating to general flood protection policy  
39 or planning.



1 (b) The board may take an action pursuant to Section 8560 only  
2 after allowing for public comment.

3 (c) The board shall, in any evidentiary hearing, consider all of  
4 the following, as applicable, for the purpose of taking any action  
5 pursuant to Section 8560:

6 (1) Evidence that the board admits into its record from any party,  
7 state or local public agency, or nongovernmental organization with  
8 expertise in flood or flood plain management.

9 (2) The best available science that relates to the scientific issues  
10 presented by the executive officer, legal counsel, the department,  
11 or other parties that raise credible scientific issues.

12 (3) Effects of the proposed decision on the entire State Plan of  
13 Flood Control.

14 (4) Effects of reasonably projected future events, including, but  
15 not limited to, changes in hydrology, climate, and development  
16 within the applicable watershed.

17 SEC. 230. Section 9602 of the Water Code is amended to read:  
18 9602. Unless the context requires otherwise, the definitions  
19 set forth in this section govern the construction of this part.

20 (a) “Board” means the Central Valley Flood Protection Board.

21 (b) “Plan” means the Central Valley Flood Protection Plan.

22 (c) “Project levee” means ~~any~~ a levee that is part of the facilities  
23 of the State Plan of Flood Control, ~~as defined in Section 5096.805~~  
24 ~~of the Public Resources Code.~~

25 (d) “Public safety infrastructure” means public safety  
26 infrastructure necessary to respond to a flood emergency, including,  
27 but not limited to, street and highway evacuation routes, public  
28 utilities necessary for public health and safety, including drinking  
29 water and wastewater treatment facilities, and hospitals.

30 (e) “Sacramento-San Joaquin Valley” means ~~any~~ lands in the  
31 bed or along or near the banks of the Sacramento River or San  
32 Joaquin River, ~~or any of their tributaries or connected therewith,~~  
33 or upon any land adjacent thereto, or within ~~any of~~ the overflow  
34 basins thereof, or upon ~~any~~ land susceptible to overflow therefrom.  
35 The Sacramento-San Joaquin Valley does not include lands lying  
36 within the Tulare Lake basin, including the Kings River.

37 (f) “State Plan of Flood Control” has the meaning set forth in  
38 subdivision (j) of Section 5096.805 of the Public Resources Code.

39 (g) “System” means the Sacramento-San Joaquin River Flood  
40 Management System described in Section 9611.

(h) “Urban area” has the same meaning as that set forth in subdivision (k) of Section 5096.805 of the Public Resources Code.

(i) “Urban level of flood protection” means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the department.

SEC. 231. Section 9610 of the Water Code is amended to read:

9610. (a) (1) By July 1, 2008, the department shall develop preliminary maps for the ~~100~~ 100- and ~~200~~ year floodplains ~~200-year flood plains~~ protected by project levees. The ~~100~~ year floodplain 100-year flood plain maps shall be prepared using criteria developed or accepted by the Federal Emergency Management Agency (FEMA).

(1)

(2) The department shall use available information from the 2002 Sacramento-San Joaquin River Basin Comprehensive Study, preliminary and regulatory FEMA flood insurance rate maps, recent ~~floodplain~~ flood plain studies, and other sources to compile preliminary maps.

(2)

(3) The department shall provide the preliminary maps to cities and counties within the Sacramento-San Joaquin Valley for use as best available information relating to flood protection.

(3)

(4) The department shall post this information on the ~~boards~~ board’s Internet Web site and may periodically update the maps as necessary.

(b) By July 1, 2008, the department shall give notice to cities in the Sacramento-San Joaquin Valley outside areas protected by project levees regarding maps and other information as to flood risks available from the Federal Emergency Management Agency or ~~other~~ another federal, state, or local agency.

(c) On or before December 31, 2010, the department shall prepare a status report on the progress and development of the Central Valley Flood Protection Plan pursuant to Section 9612. The department shall post this information on the board’s Internet Web site, and make it available to the public.

SEC. 232. Section 9614 of the Water Code is amended to read:

9614. The plan shall include all of the following:

1 (a) A description of the Sacramento-San Joaquin River Flood  
2 Management System and the cities and counties included in the  
3 system.

4 (b) A description of the performance of the system and the  
5 challenges to modifying the system to provide appropriate levels  
6 of flood protection using available information.

7 (c) A description of the facilities included in the State Plan of  
8 Flood Control, including all of the following:

9 (1) The precise location and a brief description of each facility,  
10 a description of the population and property protected by the  
11 facility, the system benefits provided by the facility, if any, and a  
12 brief history of the facility, including the year of construction,  
13 major improvements to the facility, and any failures of the facility.

14 (2) The design capacity of each facility.

15 (3) A description and evaluation of the performance of each  
16 facility, including the following:

17 (A) An evaluation of failure risks due to each of the following:

18 (i) Overtopping.

19 (ii) Under seepage and seepage.

20 (iii) Structural failure.

21 (iv) Other sources of risk, including seismic risks, that the  
22 department or the board determines are applicable.

23 (B) A description of any uncertainties regarding performance  
24 capability, including uncertainties arising from the need for  
25 additional engineering evaluations or uncertainties arising from  
26 changed conditions such as changes in estimated channel  
27 capacities.

28 (d) A description of each existing dam that is not part of the  
29 State Plan of Flood Control that provides either significant  
30 systemwide benefits for managing flood risks within the  
31 Sacramento-San Joaquin Valley or protects urban areas within the  
32 Sacramento-San Joaquin Valley.

33 (e) A description of each existing levee and other flood  
34 management facility not described in subdivision (d) that is not  
35 part of the State Plan of Flood Control *and* that provides either  
36 significant systemwide benefits for managing flood risks within  
37 the Sacramento-San Joaquin Valley or protects an urban area ~~as~~  
38 ~~defined by subdivision (k) of Section 5096.805 of the Public~~  
39 ~~Resources Code.~~

1 (f) A description of the probable impacts of projected climate  
2 change, projected land use patterns, and other potential flood  
3 management challenges on the ability of the system to provide  
4 adequate levels of flood protection.

5 (g) An evaluation of the structural improvements and repairs  
6 necessary to bring each of the facilities of the State Plan of Flood  
7 Control to within its design standard. The evaluation shall include  
8 a prioritized list of recommended actions necessary to bring each  
9 facility not identified in subdivision (h) to within its design  
10 standard.

11 (h) The evaluation shall include a list of facilities recommended  
12 to be removed from the State Plan of Flood Control. For each  
13 facility recommended for removal, the evaluation shall identify  
14 both of the following:

15 (1) The reasons for proposing the removal of the facility from  
16 the State Plan of Flood Control.

17 (2) Any additional recommended actions associated with  
18 removing the facility from the State Plan of Flood Control.

19 (i) A description of both structural and nonstructural methods  
20 for providing an urban level of flood protection to current urban  
21 areas ~~where an urban area means the same as set forth in~~  
22 ~~subdivision (k) of Section 5096.805 of the Public Resources Code.~~  
23 The description shall also include a list of recommended next steps  
24 to improve urban flood protection.

25 (j) A description of structural and nonstructural means for  
26 enabling or improving systemwide riverine ecosystem function,  
27 including, but not limited to, establishment of riparian habitat and  
28 seasonal inundation of available flood plains where feasible.

29 SEC. 233. Section 9625 of the Water Code, as added by Section  
30 9 of Chapter 364 of the Statutes of 2007, is amended to read:

31 9625. (a) By January 1, 2010, the department shall develop  
32 cost-sharing formulas, as needed, for funds made available by the  
33 Disaster Preparedness and Flood Prevention Bond Act of 2006  
34 (Chapter 1.699 (commencing with Section 5096.800) of Division  
35 5 of the Public Resources Code) and the Safe Drinking Water,  
36 Water Quality and Supply, Flood Control, River and Coastal  
37 Protection Bond Act of 2006 (Division 43 (commencing with  
38 Section 75001) of the Public Resources Code) for repairs or  
39 improvements of facilities included in the plan to determine the  
40 local share of the cost of design and construction.

1 (b) The ~~cost-share~~ *cost-sharing* formulas developed by the  
2 department shall be established pursuant to Section 12585.7.

3 (c) In developing ~~cost-share formulas~~ *a cost-sharing formula*,  
4 the department shall consider the ability of local governments to  
5 pay their share of the capital costs of the project.

6 (d) Prior to finalizing ~~cost-share~~ *cost-sharing* formulas, the  
7 department shall conduct public meetings to consider public  
8 comments. The department shall post ~~the a draft cost-share~~  
9 *cost-sharing* formula on its Internet Web site at least 30 days before  
10 the public meetings. To the extent feasible, the department shall  
11 provide outreach to disadvantaged communities to promote access  
12 and participation in the meetings.

13 SEC. 234. Section 9625 of the Water Code, as added by Section  
14 26 of Chapter 366 of the Statutes of 2007, is amended to read:

15 9625. (a) By January 1, 2010, the department shall develop  
16 cost-sharing formulas, as needed, for funds made available by the  
17 Disaster Preparedness and Flood Prevention Bond Act of 2006  
18 (Chapter 1.699 (commencing with Section 5096.800) of Division  
19 5 of the Public Resources Code) and the Safe Drinking Water,  
20 Water Quality and Supply, Flood Control, River and Coastal  
21 Protection Bond Act of 2006 (Division 43 (commencing with  
22 Section 75001) of the Public Resources Code) for repairs or  
23 improvements of facilities included in the plan to determine the  
24 local share of the cost of design and construction.

25 (b) For qualifying projects pursuant to subdivision (a), the state's  
26 share of the nonfederal share shall be set at a minimum level of  
27 50 percent.

28 (c) In developing ~~cost-share~~ *cost-sharing* formulas, the  
29 department shall consider the ability of local governments to pay  
30 their share of the capital costs of the project.

31 (d) Prior to finalizing ~~cost-share~~ *cost-sharing* formulas, the  
32 department shall conduct public meetings to consider public  
33 comments. The department shall post ~~the a draft cost-share~~  
34 *cost-sharing* formula on its Internet Web site at least 30 days before  
35 the public meetings. To the extent feasible, the department shall  
36 provide outreach to disadvantaged communities to promote access  
37 and participation in the meetings.

38 SEC. 235. Section 13478 of the Water Code is amended to  
39 read:

40 13478. The board may undertake any of the following:

- 1 (a) Enter into agreements with the federal government for federal  
2 contributions to the fund.
- 3 (b) Accept federal contributions to the fund.
- 4 (c) Enter into an agreement with, and accept matching funds  
5 from, a municipality. A municipality that seeks to enter into an  
6 agreement with the board and provide matching funds pursuant to  
7 this subdivision shall provide to the board evidence of the  
8 availability of those funds in the form of a written resolution  
9 adopted by the governing body of the municipality before it  
10 requests a preliminary loan commitment.
- 11 (d) Use moneys in the fund for the purposes permitted by the  
12 federal act.
- 13 (e) Provide for the deposit of matching funds and ~~any~~ other  
14 available and necessary moneys into the fund.
- 15 (f) Make requests on behalf of the state for deposit into the fund  
16 of available federal moneys under the federal act and determine  
17 on behalf of the state appropriate maintenance of progress toward  
18 compliance with the enforceable deadlines, goals, and requirements  
19 of the federal act.
- 20 (g) Determine on behalf of the state that publicly owned  
21 treatment works that receive financial assistance from the fund  
22 will meet the requirements of, and otherwise be treated as required  
23 by, the federal act.
- 24 (h) Provide for appropriate audit, accounting, and fiscal  
25 management services, plans, and reports relative to the fund.
- 26 (i) Take additional incidental action as appropriate for the  
27 adequate administration and operation of the fund.
- 28 (j) Charge municipalities that elect to provide matching funds  
29 a fee to cover the actual cost of obtaining the federal funds pursuant  
30 to Section 603(d)(7) of the federal act (~~33 U.S.C.A.~~ *U.S.C. Sec.*  
31 *1383(d)(7)*) and processing the loan application. The fee shall be  
32 waived by the board if sufficient funds to cover those costs are  
33 available from other sources.
- 34 (k) Use ~~money~~ *moneys* returned to the fund under clause (ii) of  
35 subparagraph (D) of paragraph (1) of subdivision (b) of Section  
36 13480, and any other source of matching funds, if not prohibited  
37 by statute, as matching funds for the federal administrative  
38 allowance under Section 603(d)(7) of the federal act (~~33 U.S.C.A.~~  
39 *U.S.C. Sec. 1383(d)(7)*).

1 (l) Expend~~money~~ *moneys* repaid by loan recipients for loan  
2 service under clauses (i) and (ii) of subparagraph (D) of paragraph  
3 (1) of subdivision (b) of Section 13480 to pay administrative costs  
4 incurred by the board under this chapter.

5 SEC. 236. Section 13480 of the Water Code is amended to  
6 read:

7 13480. (a) Moneys in the fund shall be used only for the  
8 permissible purposes allowed by the federal act, including  
9 providing financial assistance for the following purposes:

10 (1) The construction of publicly owned treatment works, as  
11 defined by Section 212 of the federal act (~~33 U.S.C.A.~~ *U.S.C. Sec.*  
12 *1292*), by any municipality.

13 (2) Implementation of a management program pursuant to  
14 Section 319 of the federal act (~~33 U.S.C.A.~~ *U.S.C. Sec. 1329*).

15 (3) Development and implementation of a conservation and  
16 management plan under Section 320 of the federal act (~~33 U.S.C.A.~~  
17 *U.S.C. Sec. 1330*).

18 (4) Financial assistance, other than a loan, toward the nonfederal  
19 share of costs of any grant-funded treatment works project, but  
20 only if that assistance is necessary to permit the project to proceed.

21 (b) Consistent with expenditure for authorized purposes, moneys  
22 in the fund may be used for the following purposes:

23 (1) Loans that meet all of the following requirements:

24 (A) Are made at or below market interest rates.

25 (B) Require annual payments of principal and any interest, with  
26 repayment commencing not later than one year after completion  
27 of the project for which the loan is made and full amortization not  
28 later than 20 years after project completion.

29 (C) Require the loan recipient to establish an acceptable  
30 dedicated source of revenue for repayment of ~~any~~ a loan.

31 (D) (i) Contain other terms and conditions required by the board  
32 or the federal act or applicable rules, regulations, guidelines, and  
33 policies. To the extent permitted by federal law, the combined  
34 interest and loan service rate shall be set at a rate that does not  
35 exceed 50 percent of the interest rate paid by the state on the most  
36 recent sale of state general obligation bonds and the combined  
37 interest and loan service rate shall be computed according to the  
38 true interest cost method. If the combined interest and loan service  
39 rate so determined is not a multiple of one-tenth of 1 percent, the  
40 combined interest and loan service rate shall be set at the multiple

1 of one-tenth of 1 percent next above the combined interest and  
2 loan service rate so determined. ~~Any~~ A loan from the fund used to  
3 finance costs of facilities planning, or the preparation of plans,  
4 specifications, or estimates for construction of publicly owned  
5 treatment works shall comply with Section 603(e) of the federal  
6 act (33 ~~U.S.C.A.~~ U.S.C. Sec. 1383(e)).

7 (ii) Notwithstanding clause (i), if the loan applicant is a  
8 municipality, an applicant for a loan for the implementation of a  
9 management program pursuant to Section 319 of the *federal* Clean  
10 Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for  
11 nonpoint source or estuary enhancement pursuant to Section 320  
12 of the *federal* Clean Water Act (33 U.S.C. Sec. 1330), and the  
13 applicant provides matching funds, the combined interest and loan  
14 service rate on the loan shall be 0 percent. A loan recipient that  
15 returns to the fund an amount of money equal to 20 percent of the  
16 remaining unpaid federal balance of an existing loan shall have  
17 the remaining unpaid loan balance refinanced at a combined interest  
18 and loan service rate of 0 percent over the time remaining in the  
19 original loan contract.

20 (2) To buy or refinance the debt obligations of municipalities  
21 within the state at or below market rates if those debt obligations  
22 were incurred after March 7, 1985.

23 (3) To guarantee, or purchase insurance for, local obligations  
24 where that action would improve credit market access or reduce  
25 interest rates.

26 (4) As a source of revenue or security for the payment of  
27 principal and interest on revenue or general obligation bonds issued  
28 by the state, if the proceeds of the sale of those bonds will be  
29 deposited in the fund.

30 (5) To establish loan guarantees for similar revolving funds  
31 established by municipalities.

32 (6) To earn interest.

33 (7) For payment of the reasonable costs of administering the  
34 fund and conducting activities under ~~Subchapter~~ *Title VI*  
35 (commencing with Section 601) of the federal act (33 ~~U.S.C.A.~~  
36 U.S.C. Sec. 1381 et seq.). Those costs shall not exceed 4 percent  
37 of all federal contributions to the fund, except that if permitted by  
38 federal and state law, interest repayments into the fund and other  
39 moneys in the fund may be used to defray additional administrative



1 and activity costs to the extent permitted by the federal government  
2 and approved by the Legislature in the Budget Act.

3 (8) For financial assistance toward the nonfederal share of the  
4 costs of grant-funded treatment works projects to the extent  
5 permitted by the federal act.

6 SEC. 237. Section 707 of the Welfare and Institutions Code is  
7 amended to read:

8 707. (a) (1) In any case in which a minor is alleged to be a  
9 person described in subdivision (a) of Section 602 by reason of  
10 the violation, when he or she was 16 years of age or older, of any  
11 criminal statute or ordinance except those listed in subdivision (b),  
12 upon motion of the petitioner made prior to the attachment of  
13 jeopardy the court shall cause the probation officer to investigate  
14 and submit a report on the behavioral patterns and social history  
15 of the minor being considered for a determination of unfitness.  
16 Following submission and consideration of the report, and of any  
17 other relevant evidence that the petitioner or the minor may wish  
18 to submit, the juvenile court may find that the minor is not a fit  
19 and proper subject to be dealt with under the juvenile court law if  
20 it concludes that the minor would not be amenable to the care,  
21 treatment, and training program available through the facilities of  
22 the juvenile court, based upon an evaluation of the following  
23 criteria:

24 (A) The degree of criminal sophistication exhibited by the minor.

25 (B) Whether the minor can be rehabilitated prior to the  
26 expiration of the juvenile court's jurisdiction.

27 (C) The minor's previous delinquent history.

28 (D) Success of previous attempts by the juvenile court to  
29 rehabilitate the minor.

30 (E) The circumstances and gravity of the offense alleged in the  
31 petition to have been committed by the minor.

32 A determination that the minor is not a fit and proper subject to  
33 be dealt with under the juvenile court law may be based on any  
34 one or a combination of the factors set forth above, which shall be  
35 recited in the order of unfitness. In any case in which a hearing  
36 has been noticed pursuant to this section, the court shall postpone  
37 the taking of a plea to the petition until the conclusion of the fitness  
38 hearing, and no plea that may ~~already~~ have been entered *already*  
39 shall constitute evidence at the hearing.

(2) (A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:

(i) The minor has previously been found to have committed two or more felony offenses.

(ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.

(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor.

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(iii) The minor's previous delinquent history.

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor.

(v) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of the above criteria. In any case in which the hearing has

1 been noticed pursuant to this section, the court shall postpone the  
2 taking of a plea to the petition until the conclusion of the fitness  
3 hearing and no plea which may ~~already~~ have been entered *already*  
4 shall constitute evidence at the hearing. If the minor is found to  
5 be a fit and proper subject to be dealt with under the juvenile court  
6 law pursuant to this subdivision, the minor shall be committed to  
7 placement in a juvenile hall, ranch camp, forestry camp, boot camp,  
8 or secure juvenile home pursuant to Section 730, or in any  
9 institution operated by the Department of Corrections and  
10 Rehabilitation, Division of Juvenile Facilities.

11 (3) If, pursuant to this subdivision, the minor is found to be not  
12 a fit and proper subject for juvenile court treatment and is tried in  
13 a court of criminal jurisdiction and found guilty by the trier of fact,  
14 the judge may commit the minor to the Department of Corrections  
15 and Rehabilitation, Division of Juvenile Facilities, in lieu of  
16 sentencing the minor to the state prison, unless the limitations  
17 specified in Section 1732.6 apply.

18 (b) Subdivision (c) shall be applicable in any case in which a  
19 minor is alleged to be a person described in Section 602 by reason  
20 of the violation of one of the following offenses:

21 (1) Murder.

22 (2) Arson, as provided in subdivision (a) or (b) of Section 451  
23 of the Penal Code.

24 (3) Robbery.

25 (4) Rape with force, violence, or threat of great bodily harm.

26 (5) Sodomy by force, violence, duress, menace, or threat of  
27 great bodily harm.

28 (6) ~~Lewd~~ A *lewd* or lascivious act as provided in subdivision  
29 (b) of Section 288 of the Penal Code.

30 (7) Oral copulation by force, violence, duress, menace, or threat  
31 of great bodily harm.

32 (8) ~~Any~~ An offense specified in subdivision (a) of Section 289  
33 of the Penal Code.

34 (9) Kidnapping for ransom.

35 (10) Kidnapping for ~~purpose~~ *purposes* of robbery.

36 (11) Kidnapping with bodily harm.

37 (12) Attempted murder.

38 (13) Assault with a firearm or destructive device.

39 (14) Assault by any means of force likely to produce great bodily  
40 injury.

- 1 (15) Discharge of a firearm into an inhabited or occupied  
2 building.
- 3 (16) ~~Any~~ An offense described in Section 1203.09 of the Penal  
4 Code.
- 5 (17) ~~Any~~ An offense described in Section 12022.5 or 12022.53  
6 of the Penal Code.
- 7 (18) ~~Any~~ A felony offense in which the minor personally used  
8 a weapon listed in subdivision (a) of Section 12020 of the Penal  
9 Code.
- 10 (19) ~~Any~~ A felony offense described in Section 136.1 or 137 of  
11 the Penal Code.
- 12 (20) Manufacturing, compounding, or selling one-half ounce  
13 or more of ~~any~~ a salt or solution of a controlled substance specified  
14 in subdivision (e) of Section 11055 of the Health and Safety Code.
- 15 (21) ~~Any~~ A violent felony, as defined in subdivision (c) of  
16 Section 667.5 of the Penal Code, which *also* would ~~also~~ constitute  
17 a felony violation of subdivision (b) of Section 186.22 of the Penal  
18 Code.
- 19 (22) Escape, by the use of force or violence, from ~~any~~ a county  
20 juvenile hall, home, ranch, camp, or forestry camp in violation of  
21 subdivision (b) of Section 871 ~~where~~ if great bodily injury is  
22 intentionally inflicted upon an employee of the juvenile facility  
23 during the commission of the escape.
- 24 (23) Torture as described in Sections 206 and 206.1 of the Penal  
25 Code.
- 26 (24) Aggravated mayhem, as described in Section 205 of the  
27 Penal Code.
- 28 (25) Carjacking, as described in Section 215 of the Penal Code,  
29 while armed with a dangerous or deadly weapon.
- 30 (26) Kidnapping for purposes of sexual assault, as punishable  
31 in subdivision (b) of Section 209 of the Penal Code.
- 32 (27) Kidnapping, as punishable in Section 209.5 of the Penal  
33 Code.
- 34 (28) The offense described in subdivision (c) of Section 12034  
35 of the Penal Code.
- 36 (29) The offense described in Section 12308 of the Penal Code.
- 37 (30) Voluntary manslaughter, as described in subdivision (a)  
38 of Section 192 of the Penal Code.
- 39 (c) With regard to a minor alleged to be a person described in  
40 Section 602 by reason of the violation, when he or she was 14

1 years of age or older, of any of the offenses listed in subdivision  
2 (b), upon motion of the petitioner made prior to the attachment of  
3 jeopardy the court shall cause the probation officer to investigate  
4 and submit a report on the behavioral patterns and social history  
5 of the minor being considered for a determination of unfitness.  
6 Following submission and consideration of the report, and of any  
7 other relevant evidence that the petitioner or the minor may wish  
8 to submit, the minor shall be presumed to be not a fit and proper  
9 subject to be dealt with under the juvenile court law unless the  
10 juvenile court concludes, based upon evidence, which evidence  
11 may be of extenuating or mitigating circumstances, that the minor  
12 would be amenable to the care, treatment, and training program  
13 available through the facilities of the juvenile court based upon an  
14 evaluation of each of the following criteria:

- 15 (1) The degree of criminal sophistication exhibited by the minor.
- 16 (2) Whether the minor can be rehabilitated prior to the expiration  
17 of the juvenile court's jurisdiction.
- 18 (3) The minor's previous delinquent history.
- 19 (4) Success of previous attempts by the juvenile court to  
20 rehabilitate the minor.
- 21 (5) The circumstances and gravity of the offenses alleged in the  
22 petition to have been committed by the minor.

23 A determination that the minor is a fit and proper subject to be  
24 dealt with under the juvenile court law shall be based on a finding  
25 of amenability after consideration of the criteria set forth above,  
26 and findings therefore recited in the order as to each of the above  
27 criteria that the minor is fit and proper under each and every one  
28 of the above criteria. In making a finding of fitness, the court may  
29 consider extenuating or mitigating circumstances in evaluating  
30 each of the above criteria. In any case in which a hearing has been  
31 noticed pursuant to this section, the court shall postpone the taking  
32 of a plea to the petition until the conclusion of the fitness hearing  
33 and no plea which may ~~already~~ have been entered *already* shall  
34 constitute evidence at the hearing. If, pursuant to this subdivision,  
35 the minor is found to be not a fit and proper subject for juvenile  
36 court treatment and is tried in a court of criminal jurisdiction and  
37 found guilty by the trier of fact, the judge may commit the minor  
38 to the Department of Corrections and Rehabilitation, Division of  
39 Juvenile Facilities, in lieu of sentencing the minor to the state  
40 prison, unless the limitations specified in Section 1732.6 apply.

(d) (1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing an offense enumerated in subdivision (b).

(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:

(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.

(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.

(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:

(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).

(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in ~~any~~ criminal conduct by gang members.

(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of ~~any~~ a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section ~~422.6~~ 422.55) of Part 1 of the Penal Code.

(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or

1 reasonably should have been known to the minor at the time of  
2 the commission of the offense.

3 (3) Except as provided in subdivision (b) of Section 602, the  
4 district attorney or other appropriate prosecuting officer may file  
5 an accusatory pleading in a court of criminal jurisdiction against  
6 any minor 16 years of age or older who is accused of committing  
7 one or more of the following offenses, if the minor has previously  
8 been found to be a person described in Section 602 by reason of  
9 the violation of ~~any~~ a felony offense, when he or she was 14 years  
10 of age or older:

11 (A) ~~Any~~ A felony offense in which it is alleged that the victim  
12 of the offense was 65 years of age or older, or blind, deaf,  
13 quadriplegic, paraplegic, developmentally disabled, or confined  
14 to a wheelchair, and that disability was known or reasonably should  
15 have been known to the minor at the time of the commission of  
16 the offense.

17 (B) ~~Any~~ A felony offense committed for the purposes of  
18 intimidating or interfering with any other person's free exercise  
19 or enjoyment of ~~any~~ a right secured to him or her by the  
20 Constitution or laws of this state or by the Constitution or laws of  
21 the United States and because of the other person's race, color,  
22 religion, ancestry, national origin, disability, gender, or sexual  
23 orientation, or because the minor perceived that the other person  
24 had one or more of those characteristics, as described in Title 11.6  
25 (commencing with Section ~~422.6~~) 422.55) of Part 1 of the Penal  
26 Code.

27 (C) The offense was committed for the benefit of, at the direction  
28 of, or in association with any criminal street gang as prohibited by  
29 Section 186.22 of the Penal Code.

30 (4) In any case in which the district attorney or other appropriate  
31 prosecuting officer has filed an accusatory pleading against a minor  
32 in a court of criminal jurisdiction pursuant to this subdivision, the  
33 case shall then proceed according to the laws applicable to a  
34 criminal case. In conjunction with the preliminary hearing as  
35 provided in Section 738 of the Penal Code, the magistrate shall  
36 make a finding that reasonable cause exists to believe that the  
37 minor comes within this subdivision. If reasonable cause is not  
38 established, the criminal court shall transfer the case to the juvenile  
39 court having jurisdiction over the matter.

(5) For ~~any~~ *an* offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(e) ~~Any~~ A report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

SEC. 238. Section 5348 of the Welfare and Institutions Code is amended to read:

5348. (a) For purposes of subdivision (e) of Section 5346, ~~any~~ *a* county that chooses to provide assisted outpatient treatment services pursuant to this article shall offer assisted outpatient treatment services including, but not limited to, all of the following:

(1) Community-based, mobile, multidisciplinary, highly trained mental health teams that use high staff-to-client ratios of no more than 10 clients per team member for those subject to court-ordered services pursuant to Section 5346.

(2) A service planning and delivery process that includes the following:

(A) Determination of the numbers of persons to be served and the programs and services that will be provided to meet their needs.

The local director of mental health shall consult with the sheriff,



1 the police chief, the probation officer, the mental health board,  
2 contract agencies, and family, client, ethnic, and citizen  
3 constituency groups as determined by the director.

4 (B) Plans for services, including outreach to families whose  
5 severely mentally ill adult is living with them, design of mental  
6 health services, coordination and access to medications, psychiatric  
7 and psychological services, substance abuse services, supportive  
8 housing or other housing assistance, vocational rehabilitation, and  
9 veterans' services. Plans shall also contain evaluation strategies,  
10 ~~that~~ *which* shall consider cultural, linguistic, gender, age, and  
11 special needs of minorities and those based on any characteristic  
12 listed or defined in Section 11135 of the Government Code in the  
13 target populations. Provision shall be made for staff with the  
14 cultural background and linguistic skills necessary to remove  
15 barriers to mental health services as a result of having  
16 limited-English-speaking ability and cultural differences.  
17 Recipients of outreach services may include families, the public,  
18 primary care physicians, and others who are likely to come into  
19 contact with individuals who may be suffering from an untreated  
20 severe mental illness who would be likely to become homeless if  
21 the illness continued to be untreated for a substantial period of  
22 time. Outreach to adults may include adults voluntarily or  
23 involuntarily hospitalized as a result of a severe mental illness.

24 (C) ~~Provisions~~ *Provision* for services to meet the needs of  
25 persons who are physically disabled.

26 (D) Provision for services to meet the special needs of older  
27 adults.

28 (E) Provision for family support and consultation services,  
29 parenting support and consultation services, and peer support or  
30 self-help group support, where appropriate.

31 (F) Provision for services to be client-directed and that employ  
32 psychosocial rehabilitation and recovery principles.

33 (G) Provision for psychiatric and psychological services that  
34 are integrated with other services and for psychiatric and  
35 psychological collaboration in overall service planning.

36 (H) Provision for services specifically directed to seriously  
37 mentally ill young adults 25 years of age or younger who are  
38 homeless or at significant risk of becoming homeless. These  
39 provisions may include continuation of services that *still* would

1 still be received through other funds had eligibility not been  
2 terminated as a result of age.

3 (I) Services reflecting special needs of women from diverse  
4 cultural backgrounds, including supportive housing that accepts  
5 children, personal services coordinator therapeutic treatment, and  
6 substance treatment programs that address ~~gender-specific~~  
7 *gender-specific* trauma and abuse in the lives of persons with  
8 mental illness, and vocational rehabilitation programs that offer  
9 job training programs free of gender bias and sensitive to the needs  
10 of women.

11 (J) Provision for housing for clients that is immediate,  
12 transitional, permanent, or all of these.

13 (K) Provision for clients who have been suffering from an  
14 untreated severe mental illness for less than one year, and who do  
15 not require the full range of services, but are at risk of becoming  
16 homeless unless a comprehensive individual and family support  
17 services plan is implemented. These clients shall be served in a  
18 manner that is designed to meet their needs.

19 (3) Each client shall have a clearly designated mental health  
20 personal services coordinator who may be part of a  
21 multidisciplinary treatment team who is responsible for providing  
22 or assuring needed services. Responsibilities include complete  
23 assessment of the client's needs, development of the client's  
24 personal services plan, linkage with all appropriate community  
25 services, monitoring of the quality and ~~follow-through~~  
26 *followthrough* of services, and necessary advocacy to ensure each  
27 client receives those services ~~which~~ *that* are agreed to in the  
28 personal services plan. Each client shall participate in the  
29 development of his or her personal services plan, and responsible  
30 staff shall consult with the designated conservator, if one has been  
31 appointed, and, with the consent of the client, shall consult with  
32 the family and other significant persons as appropriate.

33 (4) The individual personal services plan shall ensure that  
34 persons subject to assisted outpatient treatment programs receive  
35 ~~age age-appropriate, gender gender-appropriate~~, and culturally  
36 appropriate services, to the extent feasible, that are designed to  
37 enable recipients to:

38 (A) Live in the most independent, least restrictive housing  
39 feasible in the local community, and, for clients with children, to  
40 live in a supportive housing environment that strives for

1 reunification with their children or assists clients in maintaining  
2 custody of their children as is appropriate.

3 (B) Engage in the highest level of work or productive activity  
4 appropriate to their abilities and experience.

5 (C) Create and maintain a support system consisting of friends,  
6 family, and participation in community activities.

7 (D) Access an appropriate level of academic education or  
8 vocational training.

9 (E) Obtain an adequate income.

10 (F) Self-manage their illnesses and exert as much control as  
11 possible over both the day-to-day and long-term decisions that  
12 affect their lives.

13 (G) Access necessary physical health care and maintain the best  
14 possible physical health.

15 (H) Reduce or eliminate serious antisocial or criminal behavior,  
16 and thereby reduce or eliminate their contact with the criminal  
17 justice system.

18 (I) Reduce or eliminate the distress caused by the symptoms of  
19 mental illness.

20 (J) Have freedom from dangerous addictive substances.

21 (5) The individual personal services plan shall describe the  
22 service array that meets the requirements of paragraph (4), and to  
23 the extent applicable to the individual, the requirements of  
24 paragraph (2).

25 (b) ~~Any~~A county that provides assisted outpatient treatment  
26 services pursuant to this article also shall offer the same services  
27 on a voluntary basis.

28 (c) Involuntary medication shall not be allowed absent a separate  
29 order by the court pursuant to Sections 5332 to 5336, inclusive.

30 (d) ~~Each~~A county that operates an assisted outpatient treatment  
31 program pursuant to this article shall provide data to the State  
32 Department of Mental Health and, based on the data, the  
33 department shall report to the Legislature on or before May 1 of  
34 each year in which the county provides services pursuant to this  
35 article. The report shall include, at a minimum, an evaluation of  
36 the effectiveness of the strategies employed by each program  
37 operated pursuant to this article in reducing homelessness and  
38 hospitalization of persons in the program and in reducing  
39 involvement with local law enforcement by persons in the program.  
40 The evaluation and report shall also include any other measures

1 identified by the department regarding persons in the program and  
2 all of the following, based on information that is available:

3 (1) The number of persons served by the program and, of those,  
4 the number who are able to maintain housing and the number who  
5 maintain contact with the treatment system.

6 (2) The number of persons in the program with contacts with  
7 local law enforcement, and the extent to which local and state  
8 incarceration of persons in the program has been reduced or  
9 avoided.

10 (3) The number of persons in the program participating in  
11 employment services programs, including competitive employment.

12 (4) The days of hospitalization of persons in the program that  
13 have been reduced or avoided.

14 (5) Adherence to prescribed treatment by persons in the program.

15 (6) Other indicators of successful engagement, if any, by persons  
16 in the program.

17 (7) Victimization of persons in the program.

18 (8) Violent behavior of persons in the program.

19 (9) Substance abuse by persons in the program.

20 (10) Type, intensity, and frequency of treatment of persons in  
21 the program.

22 (11) Extent to which enforcement mechanisms are used by the  
23 program, when applicable.

24 (12) Social functioning of persons in the program.

25 (13) Skills in independent living of persons in the program.

26 (14) Satisfaction with program services both by those receiving  
27 them and by their families, when relevant.

28 SEC. 239. Section 5352.1 of the Welfare and Institutions Code  
29 is amended to read:

30 5352.1. (a) The court may establish a temporary  
31 conservatorship for a period not to exceed 30 days and appoint a  
32 temporary conservator on the basis of the comprehensive report  
33 of the officer providing conservatorship investigation filed pursuant  
34 to Section 5354, or on the basis of an affidavit of the professional  
35 person who recommended conservatorship stating the reasons for  
36 his *or her* recommendation, if the court is satisfied that ~~such~~ *the*  
37 comprehensive report or affidavit ~~show~~ *shows* the necessity for a  
38 temporary conservatorship.

39 (b) Except as provided in this section, all temporary  
40 conservatorships shall expire automatically at the conclusion of

1 30 days, unless prior to that date the court shall conduct a hearing  
2 on the issue of whether or not the proposed conservatee is gravely  
3 disabled as defined in subdivision (h) of Section 5008.

4 (c) If the proposed conservatee demands a court or jury trial on  
5 the issue whether he *or she* is gravely disabled, the court may  
6 extend the temporary conservatorship until the date of the  
7 disposition of the issue by the court or jury trial, provided that ~~such~~  
8 *the* extension shall in no event exceed a period of six months.

9 SEC. 240. Section 5777.7 of the Welfare and Institutions Code  
10 is amended to read:

11 5777.7. (a) In order to facilitate the receipt of medically  
12 necessary specialty mental health services by a foster child who  
13 is placed outside ~~of~~ his or her county of original jurisdiction, the  
14 State Department of Mental Health shall take all of the following  
15 actions:

16 (1) On or before July 1, 2008, create all of the following items,  
17 in consultation with stakeholders, including, but not limited to,  
18 the California Institute ~~of~~ *for* Mental Health, the Child and Family  
19 Policy Institute, the California Mental Health Directors  
20 Association, and the California Alliance of Child and Family  
21 Services:

22 (A) A standardized contract for the purchase of medically  
23 necessary specialty mental health services from organizational  
24 providers, when a contract is required.

25 (B) A standardized specialty mental health service authorization  
26 procedure.

27 (C) A standardized set of documentation standards and forms,  
28 including, but not limited to, forms for treatment plans, annual  
29 treatment plan updates, day treatment intensive and day treatment  
30 rehabilitative progress notes, and treatment authorization requests.

31 (2) On or before January 1, 2009, use the standardized items as  
32 described in paragraph (1) ~~of subdivision (a)~~ to provide medically  
33 necessary specialty mental health services to a foster child who is  
34 placed outside ~~of~~ his or her county of original jurisdiction, so that  
35 organizational providers who are already certified by a mental  
36 health plan are not required to be additionally certified by the  
37 mental health plan in the county of original jurisdiction.

38 (3) (A) On or before January 1, 2009, use the standardized  
39 items described in paragraph (1) ~~of subdivision (a)~~ to provide  
40 medically necessary specialty mental health services to a foster

1 child placed outside of his or her county of original jurisdiction to  
2 constitute a complete contract, authorization procedure, and set of  
3 documentation standards and forms, so that no additional  
4 documents are required.

5 (B) Authorize a county mental health plan to be exempt from  
6 subparagraph (A) and have an addendum to a contract,  
7 authorization procedure, or set of documentation standards and  
8 forms, ~~when~~ *if* the county mental health plan has an externally  
9 placed requirement, such as a requirement from a federal integrity  
10 agreement, that would affect one of these documents.

11 (4) Following consultation with stakeholders, including, but not  
12 limited to, the California Institute ~~of~~ *for* Mental Health, the Child  
13 and Family Policy Institute, the California Mental Health Directors  
14 Association, the California State Association of Counties, and the  
15 California Alliance of Child and Family Services, require the use  
16 of the standardized contracts, authorization procedures, and  
17 documentation standards and forms as specified in paragraph (1)  
18 ~~of subdivision (a)~~ in the 2008–09 state-county mental health plan  
19 contract and each state-county mental health plan contract  
20 thereafter.

21 (5) The mental health plan shall complete a standardized  
22 contract, as provided in paragraph (1) ~~of subdivision (a)~~, if a  
23 contract is required, or another mechanism of payment if a contract  
24 is not required, with a provider or providers of the county's choice,  
25 to deliver approved specialty mental health services for a specified  
26 foster child, within 30 days of an approved ~~Treatment~~  
27 ~~Authorization Request (TAR)~~ *treatment authorization request*.

28 (b) The California Health and Human Services Agency shall  
29 coordinate the efforts of the State Department of Mental Health  
30 and the State Department of Social Services to do all of the  
31 following:

32 (1) Participate with the stakeholders in the activities described  
33 in this section.

34 (2) During budget hearings in 2008 and 2009, report to the  
35 Legislature regarding the implementation of this section and  
36 subdivision (c) of Section 5777.6.

37 (3) On or before July 1, 2008, establish the following, in  
38 consultation with stakeholders, including, but not limited to, the  
39 California Mental Health Directors Association, the California

1 Alliance of Child and Family Services, and the County Welfare  
2 Directors Association of California:

3 (A) Informational materials that explain to foster care providers  
4 how to arrange for mental health services on behalf of the  
5 beneficiary in their care.

6 (B) Informational materials that county child welfare agencies  
7 can access relevant to the provision of services to children in their  
8 care from the out-of-county local mental health plan that is  
9 responsible for providing those services, including, but not limited  
10 to, receiving a copy of the child's treatment plan within 60 days  
11 after requesting services.

12 (C) It is the intent of the Legislature to ensure that foster children  
13 who are adopted or placed permanently with relative guardians,  
14 and who move to a county outside their original county of  
15 residence, can access mental health services in a timely manner.  
16 It is the intent of the Legislature to enact this section as a temporary  
17 means of ensuring access to these services, while the appropriate  
18 stakeholders pursue a long-term solution in the form of a change  
19 to the Medi-Cal Eligibility Data System-(MEDS) that will allow  
20 these children to receive mental health services through their new  
21 county of residence.

22 SEC. 241. Section 5806 of the Welfare and Institutions Code  
23 is amended to read:

24 5806. The State Department of Mental Health shall establish  
25 service standards that ensure that members of the target population  
26 are identified, and services provided to assist them to live  
27 independently, work, and reach their potential as productive  
28 citizens. The department shall provide annual oversight of grants  
29 issued pursuant to this part for compliance with these standards.  
30 These standards shall include, but are not limited to, all of the  
31 following:

32 (a) A service planning and delivery process that is target  
33 population based and includes the following:

34 (1) Determination of the numbers of clients to be served and  
35 the programs and services that will be provided to meet their needs.  
36 The local director of mental health shall consult with the sheriff,  
37 the police chief, the probation officer, the mental health board,  
38 contract agencies, and family, client, ethnic, and citizen  
39 constituency groups as determined by the director.

(2) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans *also* shall ~~also~~ contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(3) ~~Provisions~~ Provision for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate for the individual.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that *still* would ~~still~~ be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address ~~gender-specific~~



1 *gender-specific* trauma and abuse in the lives of persons with  
2 mental illness, and vocational rehabilitation programs that offer  
3 job training programs free of gender bias and sensitive to the needs  
4 of women.

5 (10) Provision for housing for clients that is immediate,  
6 transitional, permanent, or all of these.

7 (11) Provision for clients who have been suffering from an  
8 untreated severe mental illness for less than one year, and who do  
9 not require the full range of services, but are at risk of becoming  
10 homeless unless a comprehensive individual and family support  
11 services plan is implemented. These clients shall be served in a  
12 manner that is designed to meet their needs.

13 (b) Each client shall have a clearly designated mental health  
14 personal services coordinator who may be part of a  
15 multidisciplinary treatment team who is responsible for providing  
16 or assuring needed services. Responsibilities include complete  
17 assessment of the client's needs, development of the client's  
18 personal services plan, linkage with all appropriate community  
19 services, monitoring of the quality and ~~follow through~~  
20 *followthrough* of services, and necessary advocacy to ensure *that*  
21 each client receives those services ~~which~~ *that* are agreed to in the  
22 personal services plan. Each client shall participate in the  
23 development of his or her personal services plan, and responsible  
24 staff shall consult with the designated conservator, if one has been  
25 appointed, and, with the consent of the client, consult with the  
26 family and other significant persons as appropriate.

27 (c) The individual personal services plan shall ensure that  
28 members of the target population involved in the system of care  
29 receive ~~age~~ *age-appropriate*, ~~gender~~ *gender-appropriate*, and  
30 culturally appropriate services or appropriate services based on  
31 any characteristic listed or defined in Section 11135 of the  
32 Government Code, to the extent feasible, that are designed to  
33 enable recipients to:

34 (1) Live in the most independent, least restrictive housing  
35 feasible in the local community, and for clients with children, to  
36 live in a supportive housing environment that strives for  
37 reunification with their children or assists clients in maintaining  
38 custody of their children as is appropriate.

39 (2) Engage in the highest level of work or productive activity  
40 appropriate to their abilities and experience.

1 (3) Create and maintain a support system consisting of friends,  
2 family, and participation in community activities.

3 (4) Access an appropriate level of academic education or  
4 vocational training.

5 (5) Obtain an adequate income.

6 (6) Self-manage their illness and exert as much control as  
7 possible over both the day-to-day and long-term decisions-~~which~~  
8 *that* affect their lives.

9 (7) Access necessary physical health care and maintain the best  
10 possible physical health.

11 (8) Reduce or eliminate serious antisocial or criminal behavior  
12 and thereby reduce or eliminate their contact with the criminal  
13 justice system.

14 (9) Reduce or eliminate the distress caused by the symptoms of  
15 mental illness.

16 (10) Have freedom from dangerous addictive substances.

17 (d) The individual personal services plan shall describe the  
18 service array that meets the requirements of subdivision (c), and  
19 to the extent applicable to the individual, the requirements of  
20 subdivision (a).

21 SEC. 242. Section 10830 of the Welfare and Institutions Code,  
22 as added by Chapter 206 of the Statutes of 1996, is amended to  
23 read:

24 10830. (a) The department and the Health and Welfare Data  
25 Center shall design, implement, and maintain a statewide  
26 fingerprint imaging system for use in connection with the  
27 determination of eligibility for benefits under the ~~Aid to Families~~  
28 ~~with Dependent Children (AFDC) program~~ *California Work*  
29 *Opportunity and Responsibility to Kids Act (CalWORKs)* under  
30 Chapter 2 (commencing with Section 11200) of Part 3 excluding  
31 Aid to Families with Dependent Children-Foster Care (AFDC-FC),  
32 and the Food Stamp Program under Chapter 10 (commencing with  
33 Section 18900) of Part 6.

34 (b) (1) Every applicant for, or recipient of, aid under Chapter  
35 2 (commencing with Section 11200) of Part 3, excluding the  
36 AFDC-FC program and Chapter 10 (commencing with Section  
37 18900) of Part 6, other than dependent children or persons who  
38 are physically unable to be fingerprint imaged, shall, as a condition  
39 of eligibility for assistance, be required to be fingerprint imaged.

(2) A person subject to the requirements of paragraph (1) shall not be eligible for the ~~Aid to Families with Dependent Children~~ *CalWORKs* program or the Food Stamp Program until fingerprint images are provided, except as provided in subdivision (e). Ineligibility may extend to an entire case of ~~any~~ *a* person who refuses to provide fingerprint images.

(c) The department may adopt emergency regulations to implement this section specifying the statewide fingerprint imaging requirements and exemptions to the requirements 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). The initial adoption of any emergency regulations implementing this section, as added during the 1996 portion of the 1995–96 Regular 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) ~~All persons~~ *Persons* required to be fingerprint imaged pursuant to this section shall be informed that fingerprint images obtained pursuant to this section shall be used only for the purpose of verifying eligibility and preventing multiple enrollments in the ~~Aid to Families with Dependent Children~~ *CalWORKs* program or the Food Stamp Program. The department, county welfare agencies, and all others shall not use or disclose the data collected and maintained for any purpose other than the prevention or prosecution of fraud. Fingerprint imaging information obtained pursuant to this section shall be confidential under Section 10850.

(e) (1) Except as provided in paragraph (2), the fingerprint imaging required under this chapter shall be scheduled only during the application appointment or other regularly scheduled appointments. No other special appointment shall be required. No otherwise eligible individual shall be ineligible to receive benefits under this chapter due to ~~any~~ *a* technical problem occurring in the fingerprint imaging system or as long as the person consents to and is available for fingerprint imaging at a mutually ~~agreed-upon~~ *agreed-upon* time, not later than 60 days from the initial attempt to complete fingerprint imaging.

(2) During the first nine months following implementation, recipients may be scheduled for separate appointments to complete

1 the fingerprint imaging required by this section. Notice shall be  
2 mailed first class by the department to recipients at least 10 days  
3 prior to the appointment, and shall include procedures for the  
4 recipient to reschedule the scheduled appointment within 30 days.

5 (f) If the fingerprint image of an applicant or recipient of aid to  
6 which this section applies matches another fingerprint image on  
7 file, the county shall notify the applicant or recipient. In the event  
8 that a match is appealed, the fingerprint image match shall be  
9 verified by a trained individual and any matching case files  
10 reviewed prior to the denial of benefits. Upon confirmation that  
11 the applicant or recipient is receiving or attempting to receive  
12 multiple ~~Aid to Families with Dependent Children~~ CalWORKs  
13 program checks, a county fraud investigator shall be notified.

14 SEC. 243. Section 10960 of the Welfare and Institutions Code  
15 is amended to read:

16 10960. (a) Within 30 days after receiving the decision of the  
17 director, which is the proposed decision of an administrative law  
18 judge adopted by the director as final, a final decision rendered by  
19 an administrative law judge, or a decision issued by the director  
20 himself or herself, the affected county or applicant or recipient  
21 may file a request with the director for a rehearing. The director  
22 shall immediately serve a copy of the request on the other party  
23 to the hearing and that other party may within five days of the  
24 service file with the director a written statement supporting or  
25 objecting to the request. The director shall grant or deny the request  
26 no later than the 35th working day after the request is made to  
27 ensure the prompt and efficient administration of the hearing  
28 process. If the director grants the request, the rehearing shall be  
29 conducted in the same manner and subject to the same time limits  
30 as the original hearing.

31 (b) The grounds for requesting a rehearing are as follows:

32 (1) The adopted decision is inconsistent with the law.

33 (2) The adopted decision is not supported by the evidence in  
34 the record.

35 (3) The adopted decision is not supported by the findings.

36 (4) The adopted decision does not address all of the claims or  
37 issues raised by the parties.

38 (5) The adopted decision does not address all of the claims or  
39 issues supported by the record or evidence.

1 (6) The adopted decision does not set forth sufficient information  
2 to determine the basis for its legal conclusion.

3 (7) Newly discovered evidence, that was not in custody or  
4 available to the party requesting rehearing at the time of the  
5 hearing, is now available and the new evidence, had it been  
6 introduced, could have changed the hearing decision.

7 (8) For any other reason necessary to prevent the abuse of  
8 discretion or an error of law, or for any other reason consistent  
9 with ~~the provisions of~~ Section 1094.5 of the Code of Civil  
10 Procedure.

11 (c) The notice granting or denying the rehearing request shall  
12 explain the reasons and legal basis for granting or denying the  
13 request for rehearing.

14 (d) The decision of the director, which is the proposed decision  
15 of an administrative law judge adopted by the director as final, a  
16 final decision rendered by an administrative law judge, or a  
17 decision issued by the director himself or herself, remains final  
18 pending a request for a rehearing. Only after *a* rehearing is granted  
19 is the decision no longer the final decision in the case.

20 (e) Notwithstanding any other provision of law, a rehearing  
21 request or decision shall not be a prerequisite to filing an action  
22 under Section 10962.

23 (f) (1) Notwithstanding subdivision (a), an applicant or recipient  
24 *otherwise* may ~~otherwise~~ be entitled to a rehearing pursuant to this  
25 chapter if he or she files a request more than 30 days after the  
26 decision of the director is issued, or if he or she did not receive a  
27 copy of the decision of the director, or if there is good cause for  
28 filing beyond the 30-day period. The director may determine  
29 whether good cause exists.

30 (2) For purposes of this subdivision, “good cause” means a  
31 substantial and compelling reason beyond the party’s control,  
32 considering the length of the delay, the diligence of the party  
33 making the request, and the potential prejudice to the other party.  
34 The inability of a person to understand an adequate and ~~language~~  
35 ~~compliant~~ *language-compliant* notice, in and of itself, shall not  
36 constitute good cause. ~~In no event shall the~~ *The department shall*  
37 *not* grant a request for a hearing ~~where if~~ the request is filed more  
38 than 180 days after the order or action complained of.

1     (3) ~~Nothing in this section shall~~ *This section shall not* preclude  
2     the application of the principles of equity jurisdiction as otherwise  
3     provided by law.

4     (g) Notwithstanding the Administrative Procedure Act (Chapter  
5     3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
6     Title 2 of the Government Code), the department shall implement  
7     this section through an all-county information notice no later than  
8     January 1, 2008. The department may also provide further  
9     instructions through training notes.

10    SEC. 244. Section 11322.5 of the Welfare and Institutions  
11    Code is amended to read:

12    11322.5. (a) It is the intent of the Legislature to do each of the  
13    following:

14    (1) Maximize the ability of CalWORKs recipients to benefit  
15    from the federal Earned Income Tax Credit (EITC), including  
16    retroactive EITC credits and the Advance EITC, take advantage  
17    of the earned-income disregard to increase their federal Food Stamp  
18    Program benefits, and accumulate credit toward future social  
19    security income.

20    (2) Educate and empower all CalWORKs participants who  
21    receive the federal EITC to save or invest part or all of their credits  
22    in instruments such as individual development accounts, 401(k)  
23    plans, 403(b) plans, IRAs, 457 plans, Coverdell ESA plans,  
24    restricted accounts pursuant to subdivision (a) of Section 11155.2,  
25    or 529 plans, and to take advantage of the federal Assets for  
26    Independence ~~Program~~ *program* and ~~any~~ other matching funds,  
27    tools, and training available from public or private sources, in order  
28    to build their assets.

29    (b) It is the intent of the Legislature that counties encourage  
30    CalWORKs recipients to participate in activities that will maximize  
31    their receipt of the EITC. To this end, counties may do all of the  
32    following:

33    (1) Structure welfare-to-work activities pursuant to subdivisions  
34    (a) to (j), inclusive, of Section 11322.6 to give recipients the option  
35    of maximizing the portion of their CalWORKs benefits that meets  
36    the definition of “earned income” in Section 32(c)(2) of the Internal  
37    Revenue Code.

38    (2) Inform ~~CALWORKS~~ *CalWORKs* recipients of each of the  
39    following:

(A) That earned income, either previous or future, may make them eligible for the federal EITC, including retroactive EITC credits and the Advance EITC, increase their federal Food Stamp Program benefits, and accumulate credit toward future social security income.

(B) That recipients, as part of their welfare-to-work plans, have the option of engaging in subsidized employment and grant-based on-the-job training, as specified in Section 11322.6, and that participating in these activities will increase their earned income to the extent that they meet the requirements of federal law.

(C) That receipt of the federal EITC does not affect their CalWORKs grant and is additional tax-free income for them.

(D) That a CalWORKs recipient who receives the federal EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, Coverdell ESA, or restricted account, and that investments in these accounts will not make the recipient ineligible for CalWORKs benefits or reduce the recipient's CalWORKs benefits.

(3) At each regular eligibility redetermination, the county shall ask ~~each~~ a recipient whether the recipient is eligible for and takes advantage of the EITC. If the recipient may be eligible and does not participate, the county shall give the recipient the federal EITC form and encourage and assist the recipient to take advantage of it.

(c) (1) No later than December 1, 2008, the State Department of Social Services shall develop guidelines that counties may adopt to carry out the intent of this section and shall present options to the Governor and Legislature for any legislation necessary to further carry out the intent of this section.

(2) In developing the guidelines and legislative options, the department shall consult and convene at least one meeting of subject-matter experts, including representatives from the Assembly and Senate ~~Committees on Human Services-Committees~~, Assets for All Alliance, Asset Policy Initiative of California, California Budget Project, California Catholic Conference, California Council of Churches, California Family Resource Association, California State Association of Counties, CFED, County Welfare Directors Association of California, Federal Reserve Bank of San Francisco, Legislative Analyst's Office, Lifetime, National Council of Churches, ~~National Economic~~

~~Development and Law Center Insight Center for Community Economic Development~~, New America Foundation, Public Policy Institute of California, University of California at Los Angeles Law School *of Law*, United States Internal Revenue Service, and Western Center on Law and Poverty. Nothing in this section requires the department to compensate or pay expenses for any person it consults or invites to the meeting or meetings.

SEC. 245. Section 14043.1 of the Welfare and Institutions Code is amended to read:

14043.1. As used in this article:

(a) “Abuse” means either of the following:

(1) Practices that are inconsistent with sound fiscal or business practices and result in unnecessary cost to the federal Medicaid and Medicare programs, the Medi-Cal program, another state’s ~~medicaid~~ *Medicaid* program, or other health care programs operated, or financed in whole or in part, by the federal government or ~~any a~~ state or local agency in this state or ~~any other~~ *another* state.

(2) Practices that are inconsistent with sound medical practices and result in reimbursement by the federal Medicaid and Medicare programs, the Medi-Cal program or other health care programs operated, or financed in whole or in part, by the federal government or ~~any a~~ state or local agency in this state or ~~any other~~ *another* state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.

(b) “Applicant” means ~~any an~~ individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that applies to the department for enrollment as a provider in the Medi-Cal program.

(c) “Application or application package” means a completed and signed application form, signed under penalty of perjury or notarized pursuant to Section 14043.25, a disclosure statement, a provider agreement, and all attachments or changes in the form, statement, or agreement.

(d) “Appropriate volume of business” means a volume that is consistent with the information provided in the application and any supplemental information provided by the applicant or provider, and is of a quality and type that would reasonably be



1 expected based upon the size and type of business operated by the  
2 applicant or provider.

3 (e) “Business address” means the location where an applicant  
4 or provider provides services, goods, supplies, or merchandise,  
5 directly or indirectly, to a Medi-Cal beneficiary. A post office box  
6 or commercial box is not a business address. The business address  
7 for the location of a vehicle or vessel owned and operated by an  
8 applicant or provider enrolled in the Medi-Cal program and used  
9 to provide services, goods, supplies, or merchandise, directly or  
10 indirectly, to a Medi-Cal beneficiary shall either be the business  
11 address location listed on the provider’s application as the location  
12 where similar services, goods, supplies, or merchandise would be  
13 provided or, the applicant’s or provider’s pay-to-address.

14 (f) “Convicted” means any of the following:

15 (1) A judgment of conviction has been entered against an  
16 individual or entity by a federal, state, or local court, regardless  
17 of whether there is a posttrial motion ~~or~~, an appeal pending, or the  
18 judgment of conviction or other record relating to the criminal  
19 conduct has been expunged or otherwise removed.

20 (2) A federal, state, or local court has made a finding of guilt  
21 against an individual or entity.

22 (3) A federal, state, or local court has accepted a plea of guilty  
23 or nolo contendere by an individual or entity.

24 (4) An individual or entity has entered into participation in a  
25 first offender, deferred adjudication, or other program or  
26 arrangement where judgment of conviction has been withheld.

27 (g) “Debt due and owing” means 60 days have passed since a  
28 notice or demand for repayment of an overpayment or ~~other~~  
29 *another* amount resulting from an audit or examination, for a  
30 penalty assessment, or for ~~any other~~ *another* amount due the  
31 department was sent to the provider, regardless of whether the  
32 provider is an institutional provider or a noninstitutional provider  
33 and regardless of whether an appeal is pending.

34 (h) “Enrolled or enrollment in the Medi-Cal program” means  
35 authorized under any processes by the department or its agents or  
36 contractors to receive, directly or indirectly, reimbursement for  
37 the provision of services, goods, supplies, or merchandise to a  
38 Medi-Cal beneficiary.

39 (i) “Fraud” means an intentional deception or misrepresentation  
40 made by a person with the knowledge that the deception could

1 result in some unauthorized benefit to himself or herself or some  
2 other person. It includes any act that constitutes fraud under  
3 applicable federal or state law.

4 (j) “Location” means a street, city, or rural route address or a  
5 site or place within a street, city, or rural route address, and the  
6 city, county, state, and ~~nine-digit~~ *nine-digit* ZIP Code.

7 (k) “Not currently enrolled at the location for which the  
8 application is submitted” means either of the following:

9 (1) The provider is changing location and moving to a different  
10 location than that for which the provider was issued a provider  
11 number.

12 (2) The provider is adding a business address.

13 (l) “Individual physician practice” means a physician and  
14 surgeon licensed by the Medical Board of California or the  
15 Osteopathic Medical Board of California enrolled or enrolling in  
16 Medi-Cal as an individual provider who is sole proprietor of his  
17 or her practice or is a corporation owned solely by the individual  
18 physician and the only physician practitioner is the owner. An  
19 individual physician practice may include nonphysician medical  
20 practitioners employed and supervised by the physician.

21 (m) “Preenrollment period” or “preenrollment” includes the  
22 period of time during which an application package for enrollment,  
23 continued enrollment, or for the addition of or change in a location  
24 is pending.

25 (n) “Professionally recognized standards of health care” means  
26 statewide or national standards of care, whether in writing or not,  
27 that professional peers of the individual or entity whose provision  
28 of care is an issue recognize as applying to those peers practicing  
29 or providing care within a state. When the United States  
30 Department of Health and Human Services has declared a treatment  
31 modality not to be safe and effective, practitioners that employ  
32 that treatment modality shall be deemed not to meet professionally  
33 recognized standards of health care. This subdivision shall not be  
34 construed to mean that all other treatments meet professionally  
35 recognized standards of care.

36 (o) “Provider” means ~~any~~ *an* individual, partnership, group,  
37 association, corporation, institution, or entity, and the officers,  
38 directors, owners, managing employees, or agents of ~~any~~ *a*  
39 partnership, group association, corporation, institution, or entity,  
40 that provides services, goods, supplies, or merchandise, directly

1 or indirectly, to a Medi-Cal beneficiary and that has been enrolled  
2 in the Medi-Cal program.

3 (p) “Unnecessary or substandard items or services” means those  
4 that are either of the following:

5 (1) Substantially in excess of the provider’s usual charges or  
6 costs for the items or services.

7 (2) Furnished, or caused to be furnished, to patients, whether  
8 or not covered by Medicare, ~~medicaid~~ *Medicaid*, or any of the state  
9 health care programs to which the definitions of applicant and  
10 provider apply, and which are substantially in excess of the  
11 patient’s needs, or of a quality that fails to meet professionally  
12 recognized standards of health care. The department’s  
13 determination that the items or services furnished were excessive  
14 or of unacceptable quality shall be made on the basis of  
15 information, including sanction reports, from the following sources:

16 (A) The professional review organization for the area served  
17 by the individual or entity.

18 (B) State or local licensing or certification authorities.

19 (C) Fiscal agents or contractors; or private insurance companies.

20 (D) State or local professional societies.

21 (E) Any other sources deemed appropriate by the department.

22 SEC. 246. Section 14043.26 of the Welfare and Institutions  
23 Code is amended to read:

24 14043.26. (a) (1) On and after January 1, 2004, an applicant  
25 that *currently* is not ~~currently~~ enrolled in the Medi-Cal program,  
26 or a provider applying for continued enrollment, upon written  
27 notification from the department that enrollment for continued  
28 participation of all providers in a specific provider of service  
29 category or subgroup of that category to which the provider belongs  
30 will occur, or, except as provided in subdivisions (b) and (e), a  
31 provider not currently enrolled at a location where the provider  
32 intends to provide services, goods, supplies, or merchandise to a  
33 Medi-Cal beneficiary, shall submit a complete application package  
34 for enrollment, continuing enrollment, or enrollment at a new  
35 location or a change in location.

36 (2) Clinics licensed by the department pursuant to Chapter 1  
37 (commencing with Section 1200) of Division 2 of the Health and  
38 Safety Code and certified by the department to participate in the  
39 Medi-Cal program shall not be subject to this section.

1 (3) Health facilities licensed by the department pursuant to  
2 Chapter 2 (commencing with Section 1250) of Division 2 of the  
3 Health and Safety Code and certified by the department to  
4 participate in the Medi-Cal program shall not be subject to this  
5 section.

6 (4) Adult day health care providers licensed pursuant to Chapter  
7 3.3 (commencing with Section 1570) of Division 2 of the Health  
8 and Safety Code and certified by the department to participate in  
9 the Medi-Cal program shall not be subject to this section.

10 (5) Home health agencies licensed pursuant to Chapter 8  
11 (commencing with Section 1725) of Division 2 of the Health and  
12 Safety Code and certified by the department to participate in the  
13 Medi-Cal program shall not be subject to this section.

14 (6) Hospices licensed pursuant to Chapter 8.5 (commencing  
15 with Section 1745) of Division 2 of the Health and Safety Code  
16 and certified by the department to participate in the Medi-Cal  
17 program shall not be subject to this section.

18 (b) A physician and surgeon licensed by the Medical Board of  
19 California or the Osteopathic Medical Board of California  
20 practicing in an individual physician practice, who is enrolled and  
21 in good standing in the Medi-Cal program, and who is changing  
22 locations of that individual physician practice within the same  
23 county, shall be eligible to continue enrollment at the new location  
24 by filing a change of location form to be developed by the  
25 department. The form shall comply with all minimum federal  
26 requirements related to Medicaid provider enrollment. Filing this  
27 form shall be in lieu of submitting a complete application package  
28 pursuant to subdivision (a).

29 (c) (1) Except as provided in paragraph (2), within 30 days  
30 after receiving an application package submitted pursuant to  
31 subdivision (a), the department shall provide written notice that  
32 the application package has been received and, if applicable, that  
33 there is a moratorium on the enrollment of providers in the specific  
34 provider of service category or subgroup of the category to which  
35 the applicant or provider belongs. This moratorium shall bar further  
36 processing of the application package.

37 (2) Within 15 days after receiving an application package from  
38 a physician, or a group of physicians, licensed by the Medical  
39 Board of California or the Osteopathic Medical Board of California,  
40 or a change of location form pursuant to subdivision (b), the

department shall provide written notice that the application package or the change of location form has been received.

(d) (1) If the applicant ~~application~~ package submitted pursuant to subdivision (a) is from an applicant or provider who meets the criteria listed in paragraph (2), the applicant or provider shall be considered a preferred provider and shall be granted preferred provisional provider status pursuant to this section and for a period of no longer than 18 months, effective from the date on the notice from the department. The ability to request consideration as a preferred provider and the criteria necessary for the consideration shall be publicized to all applicants and providers. An applicant or provider who desires consideration as a preferred provider pursuant to this subdivision shall request consideration from the department by making a notation to that effect on the application package, by cover letter, or by other means identified by the department in a provider bulletin. Request for consideration as a preferred provider shall be made with each application package submitted in order for the department to grant the consideration. An applicant or provider who requests consideration as a preferred provider shall be notified within 60 days whether the applicant or provider meets or does not meet the criteria listed in paragraph (2). If an applicant or provider is notified that the applicant or provider does not meet the criteria for a preferred provider, the application package submitted shall be processed in accordance with the remainder of this section.

(2) To be considered a preferred provider, the applicant or provider shall meet all of the following criteria:

(A) Hold a current license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California, which license shall not have been revoked, whether stayed or not, suspended, placed on probation, or subject to other limitation.

(B) Be a current faculty member of a teaching hospital or a children's hospital, as defined in Section 10727, accredited by the ~~Joint Commission for Accreditation of Healthcare Organizations~~ or the American Osteopathic Association, or be credentialed by a health care service plan that is licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) or county organized health system, or be a current member in good

1 standing of a group that is credentialed by a health care service  
2 plan that is licensed under the Knox-Keene Act.

3 (C) Have full, current, unrevoked, and unsuspended privileges  
4 at a Joint Commission for Accreditation of Healthcare  
5 Organizations or American Osteopathic Association accredited  
6 general acute care hospital.

7 (D) Not have any adverse entries in the *federal* Healthcare  
8 Integrity and Protection ~~Databank~~ *Data Bank*.

9 (3) The department may recognize other providers as qualifying  
10 as preferred providers if criteria similar to those set forth in  
11 paragraph (2) are identified for the other providers. The department  
12 shall consult with interested parties and appropriate stakeholders  
13 to identify similar criteria for other providers so that they may be  
14 considered as preferred providers.

15 (e) (1) If a Medi-Cal applicant meets the criteria listed in  
16 paragraph (2), the applicant shall be enrolled in the Medi-Cal  
17 program after submission and review of a short form application  
18 to be developed by the department. The form shall comply with  
19 all minimum federal requirements related to Medicaid provider  
20 enrollment. The department shall notify the applicant that the  
21 department has received the application within 15 days of receipt  
22 of the application. The department shall issue the applicant a  
23 provider number or notify the applicant that the applicant does not  
24 meet the criteria listed in paragraph (2) within 90 days of receipt  
25 of the application.

26 (2) Notwithstanding any other provision of law, ~~any~~ *an* applicant  
27 or provider who meets all of the following criteria shall be eligible  
28 for enrollment in the Medi-Cal program pursuant to this  
29 subdivision, after submission and review of a short form  
30 application:

31 (A) The applicant's or provider's practice is based in one or  
32 more of the following: a general acute care hospital, a rural general  
33 acute care hospital, or an acute psychiatric hospital, as defined in  
34 subdivisions (a) and (b) of Section 1250 of the Health and Safety  
35 Code.

36 (B) The applicant or provider holds a current, unrevoked, or  
37 unsuspended license as a physician and surgeon issued by the  
38 Medical Board of California or the Osteopathic Medical Board of  
39 California. An applicant or provider shall not be in compliance  
40 with this subparagraph if a license revocation has been stayed, the

1 licensee has been placed on probation, or the license is subject to  
2 any other limitation.

3 (C) The applicant or provider does not have an adverse entry  
4 in the *federal* Healthcare Integrity and Protection ~~Databank~~ *Data*  
5 *Bank*.

6 (3) An applicant shall be granted provisional provider status  
7 under this subdivision for a period of 12 months.

8 (f) Except as provided in subdivision (g), within 180 days after  
9 receiving an application package submitted pursuant to subdivision  
10 (a), or from the date of the notice to an applicant or provider that  
11 the applicant or provider does not qualify as a preferred provider  
12 under subdivision (d), the department shall give written notice to  
13 the applicant or provider that any of the following applies, or shall  
14 on the 181st day grant the applicant or provider provisional  
15 provider status pursuant to this section for a period no longer than  
16 12 months, effective from the 181st day:

17 (1) The applicant or provider is being granted provisional  
18 provider status for a period of 12 months, effective from the date  
19 on the notice.

20 (2) The application package is incomplete. The notice shall  
21 identify ~~any~~ additional information or documentation that is needed  
22 to complete the application package.

23 (3) The department is exercising its authority under Section  
24 14043.37, 14043.4, or 14043.7, and is conducting background  
25 checks, preenrollment inspections, or unannounced visits.

26 (4) The application package is denied for any of the following  
27 reasons:

28 (A) Pursuant to Section 14043.2 or 14043.36.

29 (B) For lack of a license necessary to perform the health care  
30 services or to provide the goods, supplies, or merchandise directly  
31 or indirectly to a Medi-Cal beneficiary, within the applicable  
32 provider of service category or subgroup of that category.

33 (C) The period of time during which an applicant or provider  
34 has been barred from reapplying has not passed.

35 (D) For other stated reasons authorized by law.

36 (g) Notwithstanding subdivision (f), within 90 days after  
37 receiving an application package submitted pursuant to subdivision  
38 (a) from a physician or physician group licensed by the Medical  
39 Board of California or the Osteopathic Medical Board of California,  
40 or from the date of the notice to that physician or physician group

1 that does not qualify as a preferred provider under subdivision (d),  
2 or within 90 days after receiving a change of location form  
3 submitted pursuant to subdivision (b), the department shall give  
4 written notice to the applicant or provider that either paragraph  
5 (1), (2), (3), or (4) of subdivision (f) applies, or shall on the 91st  
6 day grant the applicant or provider provisional provider status  
7 pursuant to this section for a period no longer than 12 months,  
8 effective from the 91st day.

9 (h) (1) If the application package that was noticed as incomplete  
10 under paragraph (2) of subdivision (f) is resubmitted with all  
11 requested information and documentation, and received by the  
12 department within 60 days of the date on the notice, the department  
13 shall, within 60 days of the resubmission, send a notice that any  
14 of the following applies:

15 (A) The applicant or provider is being granted provisional  
16 provider status for a period of 12 months, effective from the date  
17 on the notice.

18 (B) The application package is denied for any other reasons  
19 provided for in paragraph (4) of subdivision (f).

20 (C) The department is exercising its authority under Section  
21 14043.37, 14043.4, or 14043.7 to conduct background checks,  
22 preenrollment inspections, or unannounced visits.

23 (2) (A) If the application package that was noticed as  
24 incomplete under paragraph (2) of subdivision (f) is not resubmitted  
25 with all requested information and documentation and received  
26 by the department within 60 days of the date on the notice, the  
27 application package shall be denied by operation of law. The  
28 applicant or provider may reapply by submitting a new application  
29 package that shall be reviewed de novo.

30 (B) If the failure to resubmit is by a provider applying for  
31 continued enrollment, the failure shall make the provider also  
32 subject to deactivation of the provider's number and all of the  
33 business addresses used by the provider to provide services, goods,  
34 supplies, or merchandise to Medi-Cal beneficiaries.

35 (C) Notwithstanding subparagraph (A), if the notice of an  
36 incomplete application package included a request for information  
37 or documentation related to grounds for denial under Section  
38 14043.2 or 14043.36, the applicant or provider ~~may~~ *shall* not  
39 reapply for enrollment or continued enrollment in the Medi-Cal  
40 program or for participation in any health care program



1 administered by the department or its agents or contractors for a  
2 period of three years.

3 (i) (1) If the department exercises its authority under Section  
4 14043.37, 14043.4, or 14043.7 to conduct background checks,  
5 preenrollment inspections, or unannounced visits, the applicant or  
6 provider shall receive notice, from the department, after the  
7 conclusion of the background check, preenrollment ~~inspections~~  
8 *inspection*, or unannounced visit of either of the following:

9 (A) The applicant or provider is granted provisional provider  
10 status for a period of 12 months, effective from the date on the  
11 notice.

12 (B) Discrepancies or failure to meet program requirements, as  
13 prescribed by the department, have been found to exist during the  
14 preenrollment period.

15 (2) (A) The notice shall identify the discrepancies or failures,  
16 and whether remediation can be made or not, and if so, the time  
17 period within which remediation must be accomplished. Failure  
18 to remediate discrepancies and failures as prescribed by the  
19 department, or notification that remediation is not available, shall  
20 result in denial of the application by operation of law. The applicant  
21 or provider may reapply by submitting a new application package  
22 that shall be reviewed de novo.

23 (B) If the failure to remediate is by a provider applying for  
24 continued enrollment, the failure shall make the provider also  
25 subject to deactivation of the provider's number and all of the  
26 business addresses used by the provider to provide services, goods,  
27 supplies, or merchandise to Medi-Cal beneficiaries.

28 (C) Notwithstanding subparagraph (A), if the discrepancies or  
29 failure to meet program requirements, as prescribed by the director,  
30 included in the notice were related to grounds for denial under  
31 Section 14043.2 or 14043.36, the applicant or provider ~~may~~ *shall*  
32 not reapply for three years.

33 (j) If provisional provider status or preferred provisional provider  
34 status is granted pursuant to this section, a provider number shall  
35 be used by the provider for each business address for which an  
36 application package has been approved. This provider number  
37 shall be used exclusively for the locations for which it is issued,  
38 unless the practice of the provider's profession or delivery of  
39 services, goods, supplies, or merchandise is such that services,  
40 goods, supplies, or merchandise are rendered or delivered at

1 locations other than the provider's business address and this  
2 practice or delivery of services, goods, supplies, or merchandise  
3 has been disclosed in the application package approved by the  
4 department when the provisional provider status or preferred  
5 provisional provider status was granted.

6 (k) Except for providers subject to subdivision (c) of Section  
7 14043.47, a provider currently enrolled in the Medi-Cal program  
8 at one or more locations who has submitted an application package  
9 for enrollment at a new location or a change in location pursuant  
10 to subdivision (a) ~~may~~, or filed a change of location form pursuant  
11 to subdivision (b), *may* submit claims for services, goods, supplies,  
12 or merchandise rendered at the new location until the application  
13 package or change of location form is approved or denied under  
14 this section, and shall not be subject, during that period, to  
15 deactivation, or be subject to any delay or nonpayment of claims  
16 as a result of billing for services rendered at the new location as  
17 herein authorized. However, the provider shall be considered during  
18 that period to have been granted provisional provider status or  
19 preferred provisional provider status and be subject to termination  
20 of that status pursuant to Section 14043.27. A provider that is  
21 subject to subdivision (c) of Section 14043.47 may come within  
22 the scope of this subdivision upon submitting documentation in  
23 the application package that identifies the physician providing  
24 supervision for every three locations. If a provider submits claims  
25 for services rendered at a new location before the application for  
26 that location is received by the department, the department may  
27 deny the claim.

28 (l) An applicant or a provider whose application for enrollment,  
29 continued enrollment, or a new location or change in location has  
30 been denied pursuant to this section, may appeal the denial in  
31 accordance with Section 14043.65.

32 (m) (1) Upon receipt of a complete and accurate claim for an  
33 individual nurse provider, the department shall adjudicate the claim  
34 within an average of 30 days.

35 (2) During the budget proceedings of the 2006–07 fiscal year,  
36 and each fiscal year thereafter, the department shall provide data  
37 to the Legislature specifying the timeframe under which it has  
38 processed and approved the provider applications submitted by  
39 individual nurse providers.

(3) For purposes of this subdivision, “individual nurse providers” are providers authorized under certain home- and community-based waivers and under the state plan to provide nursing services to Medi-Cal recipients in the recipients’ own homes rather than in institutional settings.

(n) The amendments to subdivision (b), which implement a change of location form, and the addition of paragraph (2) to subdivision (c), the amendments to subdivision (e), and the addition of subdivision (g), which prescribe different processing timeframes for physicians and physician groups, as contained in the act adding this subdivision Chapter 693 of the Statutes of 2007, shall become operative on July 1, 2008.

SEC. 247. Section 14045 of the Welfare and Institutions Code is amended to read:

14045. (a) A provider shall not submit a reimbursement request to the Medi-Cal program containing a beneficiary’s social security number if the department has issued that beneficiary a Medi-Cal beneficiary identification card containing a beneficiary number with the issuance date included in that number.

(b) This section shall not apply to the submission of a request by a provider for beneficiary eligibility.

(c) In order to reduce medical fraud and the black market for stolen social security cards, the State Department of Health Care Services may establish an automated HIPAA-compliant system using HIPAA transactions whereby all providers can access a beneficiary’s identification card number for submitting reimbursement requests.

(d) When the provider makes a good faith effort to obtain a recipient’s beneficiary identification card number, this section shall not apply to the following, or types of services provided by, or the following provider types, until the time that the department is able to establish a system described in subdivision (c):

(1) A hospital licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) A long-term health care facility, as defined in Section 1418 of the Health and Safety Code.

(3) A primary care clinic that is licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code.

(4) Emergency medical transportation services.

1 (5) A hospital-based physician.

2 SEC. 248. Section 14154.3 of the Welfare and Institutions  
3 Code is amended to read:

4 14154.3. (a) ~~No~~ A provision of ~~any~~ a Budget Act or other  
5 statute shall *not* be interpreted or applied to limit the amount of  
6 federal financial participation, otherwise available under federal  
7 law, which may be reimbursable to ~~any~~ counties in support of  
8 Medi-Cal administration costs for eligibility determinations. ~~No~~  
9 A provision of ~~any~~ a Budget Act or ~~other~~ another statute shall *not*  
10 be interpreted or applied to restrict the amount of federal financial  
11 participation for Medi-Cal administration costs, for eligibility  
12 determinations, otherwise available under federal law, which may  
13 be claimed by the department, and, upon receipt from the federal  
14 government, transferred by the department to ~~any~~ a county.

15 (b) The Budget Acts referred to in ~~subdivision~~ *subdivision* (a)  
16 include, but are not limited to:

17 (1) Chapter 510 of the Statutes of 1980, including Item 288 *of*  
18 *Section 2* thereof.

19 (2) Chapter 99 of the Statutes of 1981, including Items  
20 426-101-001 and 426-101-890 *of Section 2.00* thereof.

21 (3) Chapter 326 of the Statutes of 1982, including Items  
22 4260-101-001 and 4260-101-890 *of Section 2.00* thereof.

23 (4) Chapter 324 of the Statutes of 1983, including Items  
24 4260-101-001 and 4260-101-890 *of Section 2.00* thereof.

25 (5) Chapter 258 of the Statutes of 1984, including Items  
26 4260-101-001 and 4260-101-890 *of Section 2.00* thereof.

27 (6) Chapter 111 of the Statutes of 1985, including Items  
28 4260-101-001 and 4260-101-890 *of Section 2.00* thereof.

29 (7) Chapter 186 of the Statutes of 1986, including Items  
30 4260-101-001 and 4260-101-890 *of Section 2.00* thereof.

31 Provisions of the Budget Acts listed in paragraphs (1) to (7),  
32 inclusive, shall not be interpreted or applied as a prohibition  
33 regarding the amount of costs counties may incur for Medi-Cal  
34 eligibility administration activities. The provisions of those Budget  
35 Acts shall be interpreted and applied as a means of limiting the  
36 allocation of state general funds to be paid in support of Medi-Cal  
37 eligibility determination activities.

38 (c) To the extent necessary to effectuate the intent of ~~subdivision~~  
39 *subdivisions* (a) and (b), the following Budget Act provisions shall  
40 be inoperative:

(1) Provision 17.5 of Item ~~4260-101-890~~ *426-101-890 of Section 2.00 of Chapter 99 of the Statutes of 1981.*

(2) The incorporation by reference of Provision 16 of Item 4260-101-001 *of Section 2.00 of Chapter 326 of the Statutes of 1982 into Provision 1 of Item 4260-101-890 of that chapter.*

(3) The incorporation by reference of Provision 15 of Item 4260-101-001 *of Section 2.00 of Chapter 324 of the Statutes of 1983 into Provision 1 of Item 4260-101-890 of Section 2.00 of that chapter.*

(d) ~~No provision of Section~~ *Sections 14154 or and 14154.1 shall not be interpreted or applied to restrict the amount of federal financial participation, not deferred or disallowed by federal law or regulation which may be reimbursable to any county for Medi-Cal administration costs for eligibility determinations. The County Administrative Cost Control Plan established pursuant to Section 14154 shall not be interpreted or applied as a prohibition regarding the amount of costs counties may incur for Medi-Cal county administration costs. Such That plan shall be interpreted and applied only as a means of limiting the allocation of state general funds to be paid in support of such those county costs.*

(e) Should federal financial participation be deferred or disallowed regarding funds transferred by the department to a county for costs incurred for Medi-Cal eligibility determinations, and ~~such that~~ *that* federal financial participation was matched by county expenditures, the county which received ~~such those~~ federal funds shall repay the funds in question at such time as the federal deferral or disallowance has been issued. If ~~such a the~~ federal deferral or disallowance is noticed or issued prior to the transfer of ~~such the~~ *federal* funds from the department to a county, the department shall not be responsible for transferring the federal funds to the county until the deferral or disallowance issue regarding these funds has been resolved.

(f) The department shall timely appeal from ~~such the~~ federal deferrals or disallowances and the affected county may assist the department in preparing and presenting ~~any a~~ pending appeal regarding a federal deferral or disallowance.

(g) Medi-Cal eligibility determination activities are undertaken by counties on behalf of the department. Reasonable and necessary costs incurred by counties relating to ~~such the~~ eligibility determination activities shall be recognized as costs incurred by

1 the state for purposes of inclusion in the nonfederal share of  
2 Medi-Cal eligibility determination expenditures for claiming  
3 federal financial participation.

4 (h) Subdivision (e) shall not apply to agreements between the  
5 department and a county executed prior to ~~the effective date of~~  
6 ~~this section~~ *September 27, 1987*.

7 SEC. 249. Section 14407.1 of the Welfare and Institutions  
8 Code is amended to read:

9 14407.1. (a) A contractor that has entered into a contract with  
10 the department under this chapter, or under ~~any other~~ *another*  
11 Medi-Cal managed care contracting authority, may offer  
12 nonmonetary incentives to promote good health practices by its  
13 existing Medi-Cal enrollees.

14 (b) No Medi-Cal managed care contractor may offer ~~any~~ *an*  
15 incentive to promote good health practices by its Medi-Cal  
16 enrollees prior to written approval by the department. In the  
17 absence of other countervailing considerations, the department  
18 shall approve, to the extent permitted by federal law, the use by  
19 health plans of nonmonetary incentives to enhance health education  
20 program efforts to increase member participation, learning, and  
21 motivation to do any of the following:

22 (1) Effectively use managed health care services, including  
23 preventive and primary care services, ~~obstetrical~~ *obstetric* care,  
24 and health education services.

25 (2) Modify personal health behaviors, achieving and maintaining  
26 healthy lifestyles and treatment therapies and positive health  
27 outcomes.

28 (3) ~~Following~~ *Follow* self-care regimens and treatment therapies  
29 for existing medical conditions, chronic diseases, or health  
30 conditions.

31 (c) If a contractor is a publicly operated entity, the offering of  
32 a department-approved, nonmonetary incentive to promote good  
33 health practices by enrollees shall not constitute a gift of public  
34 funds.

35 (d) Violations of this section shall be subject to the requirements  
36 and penalties set forth in Sections 14408 and 14409, and any  
37 regulations adopted by the department pursuant to this article.

38 (e) The department shall develop and publish written guidelines  
39 for the appropriate use of nonmonetary incentives that may be  
40 offered to Medi-Cal enrollees.

1 SEC. 250. Section 15657.3 of the Welfare and Institutions  
2 Code is amended to read:

3 15657.3. (a) The department of the superior court having  
4 jurisdiction over probate conservatorships shall also have  
5 concurrent jurisdiction over civil actions and proceedings involving  
6 a claim for relief arising out of the abduction, as defined in Section  
7 15610.06, or the abuse of an elderly or dependent adult, if a  
8 conservator has been appointed for *the* plaintiff prior to the  
9 initiation of the action for abuse.

10 (b) The department of the superior court having jurisdiction  
11 over probate conservatorships shall not grant relief under this  
12 article if the court determines that the matter should be determined  
13 in a civil action, but shall instead transfer the matter to the general  
14 civil calendar of the superior court. The court need not abate ~~any~~  
15 *a* proceeding for relief pursuant to this article if the court  
16 determines that the civil action was filed for the purpose of delay.

17 (c) The death of the elder or dependent adult does not cause the  
18 court to lose jurisdiction of ~~any a~~ claim for relief for abuse of ~~an~~  
19 *that* elder or dependent adult.

20 (d) (1) Subject to paragraph (2) and subdivision (e), after the  
21 death of the elder or dependent adult, the right to commence or  
22 maintain an action shall pass to the personal representative of the  
23 decedent. If there is no personal representative, the right to  
24 commence or maintain an action shall pass to any of the following,  
25 if the requirements of Section 377.32 of the Code of Civil  
26 Procedure are met:

27 (A) An intestate heir whose interest is affected by the action.

28 (B) The decedent's successor in interest, as defined in Section  
29 377.11 of the Code of Civil Procedure.

30 (C) An interested person, as defined in Section 48 of the Probate  
31 Code, as limited in this subparagraph. As used in this subparagraph,  
32 "an interested person" does not include a creditor or a person who  
33 has a claim against the estate *and* who is not an heir or beneficiary  
34 of the decedent's estate.

35 (2) If the personal representative refuses to commence or  
36 maintain an action or if the personal representative's family or an  
37 affiliate, as those terms are defined in subdivision (c) of Section  
38 1064 of the Probate Code, is alleged to have committed abuse of  
39 the elder or dependent adult, the persons described in  
40 subparagraphs (A), (B), and (C) of paragraph (1) shall have

1 standing to commence or maintain an action for elder abuse.  
2 ~~Nothing in this paragraph shall~~ *This paragraph does not* require  
3 the court to resolve the merits of an elder abuse action for ~~the~~  
4 purposes of finding that a plaintiff who meets the qualifications  
5 of subparagraphs (A), (B), and (C) of paragraph (1) has standing  
6 to commence or maintain such an action.

7 (e) If two or more persons who are either described in  
8 ~~subparagraphs~~ *subparagraph* (A), (B), or (C) of paragraph (1) of  
9 subdivision (d); or a personal representative claim to have standing  
10 to commence or maintain an action for elder abuse, upon petition  
11 or motion, the court in which the action or proceeding is pending,  
12 may make any order concerning the parties that is appropriate to  
13 ensure the proper administration of justice in the case pursuant to  
14 Section 377.33 of the Code of Civil Procedure.

15 (f) This section does not affect the applicable statute of  
16 limitations for commencing an action for relief for abuse of an  
17 elderly or dependent adult.

18 SEC. 251. Section 15660 of the Welfare and Institutions Code  
19 is amended to read:

20 15660. (a) The Department of Justice shall secure any criminal  
21 record of a person to determine whether the person has ever been  
22 convicted of a violation or attempted violation of Section 243.4  
23 of the Penal Code, a sex offense against a minor, or of ~~any~~ *a* felony  
24 that requires registration pursuant to Section 290 of the Penal Code,  
25 or whether the person has been convicted or incarcerated within  
26 the last 10 years as the result of committing a violation or attempted  
27 violation of Section 273a, 273d, or subdivision (a) or (b) of Section  
28 368, of the Penal Code, or as the result of committing a theft,  
29 robbery, burglary, or any felony, and shall provide a subsequent  
30 arrest notification pursuant to Section 11105.2 of the Penal Code,  
31 if both of the following conditions are met:

32 (1) An employer of the person requests the determination and  
33 submits fingerprints of the person to the Department of Justice.  
34 For purposes of this paragraph, “employer” includes, but is not  
35 limited to, an in-home supportive services recipient, as defined by  
36 Section 12302.2, ~~any~~ *a* recipient of personal care services under  
37 the Medi-Cal program pursuant to Section 14132.95, and ~~any~~ *a*  
38 public authority or nonprofit consortium, as described in  
39 subdivision (a) of Section 12301.6.



1 (2) The person is unlicensed and provides nonmedical domestic  
2 or personal care to an aged or disabled adult in the adult's own  
3 home.

4 (b) (1) If it is found that the person has ever been convicted of  
5 a violation or attempted violation of Section 243.4 of the Penal  
6 Code, a sex offense against a minor, or of ~~any a felony which that~~  
7 requires registration pursuant to Section 290 of the Penal Code,  
8 or that the person has been convicted or incarcerated within the  
9 last 10 years as the result of committing a violation or attempted  
10 violation of Section 273a, 273d, or subdivision (a) or (b) of Section  
11 368, of the Penal Code, or as the result of committing a theft,  
12 robbery, burglary, or any felony, the Department of Justice shall  
13 notify the employer of that fact. If no criminal record information  
14 has been recorded, the Department of Justice shall provide the  
15 employer with a statement of that fact.

16 (2) ~~Any~~ An employer may deny employment to ~~any a~~ person  
17 who is the subject of a report under paragraph (1) ~~when if~~ the report  
18 indicates that the person has committed any of the crimes identified  
19 in paragraph (1).

20 (3) ~~Nothing in this section shall be construed to~~ This section  
21 shall not require ~~any an~~ employer to hire ~~any a~~ person who is the  
22 subject of a report under paragraph (1) ~~when if~~ the report indicates  
23 that the person has not committed any of the crimes indicated in  
24 paragraph (1).

25 (c) (1) Fingerprints shall be on a card provided by the  
26 Department of Justice for the purpose of obtaining a set of  
27 fingerprints. The employer shall submit the fingerprints to the  
28 Department of Justice. Within 30 calendar days of the receipt of  
29 the fingerprints, the Department of Justice shall notify the employer  
30 of the criminal record information, as provided in this subdivision.  
31 If no criminal record information has been recorded, the  
32 Department of Justice shall provide the employer with a statement  
33 of that fact as soon as possible, but not later than 30 calendar days  
34 of receipt of the fingerprints. If new fingerprints are required for  
35 processing, the Department of Justice ~~shall~~, as soon as possible,  
36 but not later than 30 calendar days from the date of receipt of the  
37 fingerprints, shall notify the employer that the fingerprints were  
38 illegible.

39 (2) Fingerprints may be taken by ~~any a~~ local law enforcement  
40 officer or agency for purposes of paragraph (1).

(3) Counties shall notify ~~any~~ a recipient of, or applicant for, in-home supportive services or personal care services under the Medi-Cal program, upon his or her application for in-home supportive services or personal care services or during his or her annual redetermination, or upon the recipient's changing providers, that a criminal record check is available, and that the check can be performed by the Department of Justice.

(d) (1) The Department of Justice shall charge a fee to the employer to cover the costs of administering this section.

(2) (A) If the employer is an in-home supportive services recipient, as defined in Section ~~123202.2~~ 12302.2, a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, or ~~any~~ a public authority or nonprofit consortium as described in subdivision (a) of Section 12301.6, the fee shall be shared by the county and the state in the same ratio as described in Section 12306.

(B) (i) Notwithstanding any other provision of law, and except as provided in clause (ii), the department shall, no later than January 1, 2009, implement subparagraph (A) through an all county letter from the director.

(ii) No later than July 1, 2009, the department shall adopt regulations to implement the provisions listed in clause (i).

(e) It is the intent of the Legislature that the Department of Justice charge a fee to cover its cost in providing services in accordance with this section to comply with the 30-calendar-day requirement for provision to the department of the criminal record information, as contained in subdivision (c).

SEC. 252. Section 16522.1 of the Welfare and Institutions Code is amended to read:

16522.1. In order to be licensed pursuant to Section 1559.110 of the Health and Safety Code, an applicant shall obtain certification from the county department of social services or the county probation department that the facility program provides all of the following:

(a) (1) Admission criteria for participants in the program, including, but not limited to, consideration of the applicant's age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are

wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.

(2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.

(b) Strict employment criteria that include a consideration of the employee's age, drug or alcohol history, and experience in working with persons in this age group.

(c) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.

(d) A detailed plan for monitoring the placement of persons under the licensee's care.

(e) A contract between the participating person and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.

(f) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.

(g) A system for payment for utilities, telephone, and rent.

(h) Policies regarding all of the following:

(1) Education requirements.

(2) Work expectations.

(3) Savings requirements.

(4) Personal safety.

(5) Visitors, including, but not limited to, visitation by the placement auditor pursuant to subdivision (d).

(6) Emergencies.

(7) Medical problems.

(8) Disciplinary measures.

(9) Child care.

(10) Pregnancy.

- 1 (11) Curfew.
- 2 (12) Apartment cleanliness.
- 3 (13) Use of utilities and telephone.
- 4 (14) Budgeting.
- 5 (15) Care of furnishings.
- 6 (16) Decorating of apartments.
- 7 (17) Cars.
- 8 (18) Lending or borrowing money.
- 9 (19) Unauthorized purchases.
- 10 (20) Dating.
- 11 (21) Grounds for termination that may include, but shall not be
- 12 limited to, illegal activities or harboring runaways.
- 13 (i) Apartment furnishings, and a policy on disposition of the
- 14 furnishings when the participant completes the program.
- 15 (j) Evaluation of the participant's progress in the program and
- 16 reporting to the independent living program and to the department
- 17 regarding that progress.
- 18 (k) A linkage to the federal ~~Job Training and Partnership Act~~
- 19 ~~(29 U.S.C. Sec. 1501 et seq.)~~ *Workforce Investment Act of 1998*
- 20 *(29 U.S.C. Sec. 2801 et seq.)* program administered in the local
- 21 area to provide employment training to eligible participants.
- 22 SEC. 253. Section 19630.5 of the Welfare and Institutions
- 23 Code is amended to read:
- 24 19630.5. (a) The Blind Vendor Revolving Loan Fund is hereby
- 25 created in the State Treasury, and, notwithstanding Section 13340
- 26 of the Government Code, is continuously appropriated without
- 27 regard to fiscal years to the department for the purposes specified
- 28 in this section. The fund shall be interest bearing. Commencing
- 29 January 1, 2008, the fund is hereby renamed the BEP Vendor Loan
- 30 Interest Rate Buy-Down Fund.
- 31 (b) The fund shall consist of moneys appropriated to that fund
- 32 by the Legislature, and notwithstanding Section 16305.7 of the
- 33 Government Code, all interest, dividends, and pecuniary gains
- 34 from investments or deposits of moneys in the fund.
- 35 (c) (1) Moneys in the fund shall be used by the department for
- 36 the purpose of reducing the interest that vendors ~~must~~ *are required*
- 37 *to* pay for loans issued by an eligible lender to purchase inventory
- 38 and equipment for vending facilities.
- 39 (2) The department shall make ~~any~~ funding contingent upon the
- 40 vendor's good standing in the Business Enterprises Program and

1 a determination that the department has not paid interest on ~~any~~  
2 ~~other~~ *another* loan obtained by the vendor.

3 (3) Upon a determination that a vendor is eligible, the  
4 department shall pay, on behalf of the vendor, to an eligible lender,  
5 an amount not to exceed five thousand dollars (\$5,000) to reduce  
6 the fair market interest rate of a loan described in paragraph (1)  
7 by up to 3 percent.

8 (4) ~~In the event that~~ *If* a vendor fails to repay a loan to an eligible  
9 lender, the lender shall reimburse the fund for the fund's share of  
10 any interest not yet accrued as of the time of default by the vendor.

11 (d) In determining eligibility for ~~a~~ loan interest buy-down  
12 assistance from this fund, the department shall make any loan  
13 interest buy-down assistance contingent upon a determination that  
14 the blind vendor reasonably can be expected to repay the loan  
15 based on the vendor's expected income and that the applicant is  
16 currently an active vendor and has been in the Business Enterprises  
17 Program for at least one year.

18 (e) For purposes of this section, "eligible lender" means a  
19 financial institution organized, chartered, or holding a license or  
20 authorization certificate under a law of this state or in the United  
21 States to make loans or extend credit and subject to supervision  
22 by an official or agency of this state or the United States.

23 (f) Loan interest buy-down assistance pursuant to this section  
24 shall be made without regard to race, religion, creed, or sex.

25 (g) The total amount of interest buy-down assistance that may  
26 be provided under this section is limited to the amount contained  
27 in the fund, and the state shall not be liable beyond the amount  
28 contained in that fund for these debts, obligations, and liabilities.

29 (h) In the event that the total amount of loan interest buy-down  
30 assistance applied for under this section exceeds the total amount  
31 of assistance that may be provided pursuant to this section, the  
32 department may establish a system of priorities for the approval  
33 of applications.

34 SEC. 254. Section 34 of the Sacramento Area Flood Control  
35 Agency Act (Chapter 510 of the Statutes of 1990), as amended by  
36 Section 2 of Chapter 619 of the Statutes of 2007, is amended to  
37 read:

38 Sec. 34. (a) "Project" means the acquisition, construction,  
39 maintenance, or operation of ~~any~~ *a* flood control facility authorized  
40 under the agreement and not inconsistent with this act, including,

1 but not limited to, acquisition of rights-of-way and easements and  
2 payment of incidental expenses.

3 ~~(b) Nothing in this section, or any other provision of this act,~~  
4 ~~authorizes~~ *This act does not authorize* the agency to exercise the  
5 power of eminent domain outside its boundaries.

6 (c) Participation in a project includes making payments or other  
7 contributions pursuant to ~~any~~ a contract entered into with another  
8 governmental agency that requires the other governmental agency  
9 to perform work on a project.

10 (d) The acquisition of rights-of-way and easements outside of  
11 the agency's boundaries shall be consistent with applicable county  
12 plans, including county general plans, and the State Plan of Flood  
13 Control.

14 (e) This section does not alter the existing powers granted to  
15 members of the agreement.

16 (f) This section does not preclude the acquisition of time-limited  
17 easements.

18 SEC. 255. Section 1107 of the Ojai Basin Groundwater  
19 Management Agency Act (Chapter 750 of the Statutes of 1991),  
20 as amended by Section 1 of Chapter 551 of the Statutes of 2007,  
21 is amended to read:

22 Sec. 1107. (a) Except as provided in subdivision (b), the  
23 groundwater extraction charge shall not exceed seven dollars and  
24 fifty cents (\$7.50) per acre-foot pumped per year.

25 (b) The board may establish a groundwater extraction charge  
26 maximum limitation that exceeds the amount specified in  
27 subdivision (a) if both of the following ~~are true~~ *apply*:

28 (1) The imposition of the groundwater extraction charge is  
29 approved by a majority vote of the operators that are subject to the  
30 charge, with the votes weighted based on the volume of water  
31 extracted by each operator. Votes shall be calculated based on a  
32 three-year average of production from the basin, as determined by  
33 payments of groundwater extraction charges to the agency during  
34 the three years immediately preceding the vote, except that for  
35 operators with facilities in use less than three years, votes shall be  
36 weighted based upon a single-year average if the facility has been  
37 in use less than two years, or weighted based upon a two-year  
38 average if the facility has been in use more than two years and less  
39 than three years. ~~Each~~ *An* operator shall be entitled to one vote for

1 each averaged acre-foot of groundwater pumped. A change in  
2 ownership shall not affect the history of production from any well.

3 (2) The groundwater extraction charge does not exceed  
4 twenty-five dollars (\$25) per acre-foot pumped per year.

5 SEC. 256. Section 1 of Chapter 58 of the Statutes of 1997, as  
6 amended by Chapter 525 of the Statutes of 2007, is amended to  
7 read:

8 Section 1. (a) A charter school operating under a charter  
9 approved before June 1, 1997, by the county board of education  
10 of a county of the first class to serve at-risk pupils, may operate  
11 until June 30, 2013. The continuation of the authority of a charter  
12 school to operate pursuant to this subdivision after June 30, 2008,  
13 shall be subject to the approval of that county board of education.

14 (b) Notwithstanding any other provisions of the Education Code,  
15 except as set forth in subdivision (c), for the 2007–08 to 2012–13  
16 fiscal years, inclusive, the attendance of pupils in a charter school  
17 to which this section applies shall be funded at the same rates for  
18 the same categories of pupils as community schools and community  
19 day schools in the same county.

20 (c) A charter school operated pursuant to subdivision (a) ~~may~~,  
21 if its charter so provides, *may* operate one or more community day  
22 schools in compliance with Article 3 (commencing with Section  
23 48660) of Chapter 4 of Part 27 *of Division 4 of Title 2* of the  
24 Education Code, except for compliance with the employment  
25 requirements in subdivision (a) of Section 48663 and subdivision  
26 (c) of Section 48664 of the Education Code, and the funded average  
27 daily attendance limitations of paragraphs (1) and (2) of subdivision  
28 (a) of Section 48664 of the Education Code, and be funded for not  
29 more than 2,000 units of average daily attendance in any fiscal  
30 year, to the extent that funding is appropriated therefor, pursuant  
31 to subdivision (a) of Section 48664 of the Education Code, as if  
32 it were a community day school operated by a county. The average  
33 daily attendance of a charter school operating pursuant to this  
34 section shall not be in addition to the average daily attendance  
35 limitation provided pursuant to subdivision (a) of Section 48664  
36 of the Education Code.

37 (d) A county board of education that has approved a charter  
38 school as set forth in subdivision (a) shall establish specific  
39 accountability criteria to annually measure the performance of the  
40 charter school. The county board of education shall annually report

1 the measurement to the State Department of Education, the  
2 Department of Finance, the Assembly Committee on Education,  
3 the Assembly Committee on Appropriations, the Senate Committee  
4 on Education, and the Senate Committee on Appropriations. The  
5 accountability criteria shall comply with the alternative  
6 accountability system described by subdivision (h) of Section  
7 52052 of the Education Code.

8 (e) If a charter school does not comply with the performance  
9 criteria described in subdivision (d), the charter school shall submit  
10 to the county board of education a plan for improvement that is  
11 designed to enable the charter school to comply with the criteria  
12 within a ~~time~~ *timeframe* determined by the county board of  
13 education.

14 SEC. 257. Section 2 of Chapter 4 of the Statutes of 2007 is  
15 amended to read:

16 Sec. 2. For purposes of this act:

17 (a) “Applicant committee agreement” means ~~agreements~~ *an*  
18 *agreement* to be entered into between the Organizing Committee  
19 for the Olympic Games (OCOG) and the United States Olympic  
20 Committee (USOC) if, and upon, the USOC’s selection on *or* about  
21 April 14, 2007, of the City of Los Angeles as the official United  
22 States candidate city.

23 (b) “Bid committee agreement” means ~~agreements~~ *an agreement*  
24 entered into between the OCOG and the USOC governing the  
25 OCOG and the bid process.

26 (c) “Endorsing municipality” means the City of Los Angeles,  
27 which has authorized a bid by ~~a~~ *the* OCOG for selection of the  
28 municipality as the site of the Olympic Games and Paralympic  
29 Games.

30 (d) “Games” means the 2016 Olympic Games.

31 (e) “Games support contract” means a joinder undertaking, a  
32 joinder agreement, or a similar contract executed by the Governor  
33 and containing terms permitted or required by this act.

34 (f) “Joinder agreement” means an agreement entered into by:

35 (1) The Governor, on behalf of this state, and a site selection  
36 organization setting out representations and assurances by the state  
37 in connection with the selection of a site in this state for the  
38 location of the games.

39 (2) The endorsing municipality and a site selection organization  
40 setting out representations and assurances by the endorsing



1 municipality in connection with the selection of a site in this state  
2 for the location of the games.

3 (g) “Joinder undertaking” means an agreement entered into by:

4 (1) The Governor, on behalf of this state, and a site selection  
5 organization that the state will execute a joinder agreement in the  
6 event that the site selection organization selects a site in this state  
7 for the games.

8 (2) The endorsing municipality and a site selection organization  
9 that the endorsing municipality will execute a joinder agreement  
10 in the event that the site selection organization selects a site in this  
11 state for the games.

12 (h) “OCOG” means a nonprofit corporation, or its successor in  
13 interest, that:

14 (1) Has been authorized by the endorsing municipality to pursue  
15 an application and bid on the applicant’s behalf to a site selection  
16 organization for selection as the site for the games.

17 (2) With the authorization of the endorsing municipality, has  
18 executed the bid committee agreement with a site selection  
19 organization regarding a bid to host the games.

20 (i) “Site selection organization” means the United States  
21 Olympic Committee, the International Olympic Committee, the  
22 International Paralympic Committee, all three, or some  
23 combination, as applicable.

24 SEC. 258. Section 4 of Chapter 4 of the Statutes of 2007 is  
25 amended to read:

26 Sec. 4. (a) The Governor may agree, in accordance with law  
27 and subject to Sections 5 and 6 of this act, in a joinder undertaking  
28 entered into with a site selection organization that:

29 (1) The Governor shall execute a joinder agreement if the site  
30 selection organization selects a site in this state for the games.

31 (2) The state shall refrain, during the period, or any portion  
32 thereof, between the execution of the joinder undertaking and  
33 award by the International Olympic Committee (IOC) of the games  
34 to a host city, from becoming a party to or approving or consenting  
35 to ~~any~~ *an* act, contract, commitment, or other action contrary to,  
36 or which might affect, any of the obligations stipulated in the  
37 joinder agreement.

38 (3) The Governor may agree that ~~any~~ *a* dispute in connection  
39 with the joinder undertaking arising during the period between the  
40 execution of the joinder undertaking and the IOC’s award of the

1 games to a host city shall be definitively settled as provided in the  
2 bid committee agreement.

3 (b) The Governor may agree in a joinder agreement that the  
4 state shall, in accordance with law and subject to Sections 5 and  
5 6 of this act, do the following:

6 (1) Provide or cause to be provided any or all of the state  
7 government funding, facilities, and other resources specified in  
8 the OCOG's bid to host the games.

9 (2) The state will be liable, solely by means of the funding  
10 mechanism established by Sections 5 and 6 of this act, for:

11 (A) Obligations of the OCOG to a site selection organization,  
12 including obligations indemnifying the site selection organization  
13 against claims of and liabilities to third parties arising out of or  
14 relating to the games.

15 (B) Any financial deficit relating to the OCOG or the games.

16 (3) The state's liability shall not exceed the amount of funds  
17 appropriated to the Olympic Games Trust Fund established in  
18 Section 5 of this act. Any liability above this amount shall be the  
19 responsibility of the OCOG.

20 (4) Acknowledge that the OCOG will be bound by a series of  
21 agreements with the site selection organization as set forth in the  
22 joinder agreement.

23 ~~(C)~~

24 (c) The Governor shall execute a joinder undertaking and a  
25 joinder agreement, provided the parties conform with this act.

26 ~~(D)~~

27 (d) A games support contract may contain any additional  
28 provisions the Governor requires in order to carry out the purposes  
29 of this act.

30 SEC. 259. Section 2 of Chapter 26 of the Statutes of 2007 is  
31 amended to read:

32 Sec. 2. The amendment of Section ~~210150.1~~ 20150.1 made by  
33 this act does not constitute a change in, but is declaratory of,  
34 existing law.

35 SEC. 260. Section 2 of Chapter 451 of the Statutes of 2007 is  
36 amended to read:

37 Sec. 2. The Legislature finds and declares that a special law is  
38 necessary and that a general law cannot be made applicable within  
39 the meaning of Section 16 of Article IV of the California  
40 Constitution because of unique circumstances of community

1 familiarity with the program in Section 1 *of this act*, applicable  
2 only to the Santa Cruz Metropolitan Transit District and the Santa  
3 Clara ~~County Transit District~~ *Valley Transportation Authority*.

4 SEC. 261. Any section of any act enacted by the Legislature  
5 during the 2008 calendar year that takes effect on or before January  
6 1, 2009, and that amends, amends and renumbers, adds, repeals  
7 and adds, or repeals a section that is amended, amended and  
8 renumbered, added, repealed and added, or repealed by this act,  
9 shall prevail over this act, whether that act is enacted prior to, or  
10 subsequent to, the enactment of this act. The repeal, or repeal and  
11 addition, of any article, chapter, part, title, or division of any code  
12 by this act shall not become operative if any section of any other  
13 act that is enacted by the Legislature during the 2008 calendar year  
14 and takes effect on or before January 1, 2009, amends, amends  
15 and renumbers, adds, repeals and adds, or repeals any section  
16 contained in that article, chapter, part, title, or division.