

AMENDED IN SENATE JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1164

Introduced by Assembly Member Tran

February 27, 2009

An act to amend Sections 315, 650, 809, 1627.5, 1754.5, 1915, 1925, 1950, 2361, 2660.3, 3041, 4060, 4200, 4301, 4989.54, 7403, 7847, 8027, 17533.6, 17537.12, 21606.5, 23356.2, 24045.4, and 24045.6 of the Business and Professions Code, to amend Sections 1675, 1770, 1780, 1936, 1993, 1993.02, 1993.03, 1993.04, 1993.05, 1993.07, 1993.08, 1993.09, and 2782.96 of the Civil Code, to amend Sections 416.80 and 697.350 of the Code of Civil Procedure, to amend Sections 8210 and 31155 of the Corporations Code, to amend Sections 8300, 8447, 8483.7, 10802, 17078.57, 17282.5, 35400, 41003.3, 42133.5, 42238, 48646, 51241, 52055.650, 54712, 60200.1, 69613, and 69662 of, to amend the heading of Article 14 (commencing with Section 69785) of Chapter 2 of Part 42 of Division 5 of Title 3 of, *to repeal Section 35294.1 of*, to repeal Chapter 5 (commencing with Section 35900) of Part 21 of Division 3 of Title 2 of, and to amend and renumber Sections 219 and 66269 of, the Education Code, to amend Sections 9604 and 10704 of the Elections Code, to amend Sections 3041.5 and 17706 of the Family Code, to amend Sections 287, 550, 767, and 17409 of, and to amend the heading of Chapter 4.5 (commencing with Section 550) of Division 1 of, the Financial Code, to amend Sections 2302 and 5655 of the Fish and Game Code, to amend Sections 35783.1, 47000, 52891.1, 52892, 52931, and 52932 of the Food and Agriculture Code, to amend Sections 8206, 8299.01, 8879.73, 8880.321, 11011.1, 14679, 31485.14, 53075.9, 65080, 66704, 70321, and 70374 of, *and to repeal the heading of Article 2.1 (commencing with Section 65892.13) of Chapter 4 of Division 1 of Title 7 of*, the Government Code, to amend Section 1760

of the Harbors and Navigation Code, to amend Sections 442.5, 1266, 1324.21, 1361.1, 1371, 1371.1, 1522.41, 1798.200, 11752.1, 11758.46, 18931.7, 19997, 25214.12, 25252, 25253, 33684, 42310, 50707, 52013, 103526.5, 107115, 112877, 114094, 130501, and 130506 of, to repeal Sections 1373.65, 1373.95, and 1373.96 of, and to amend and renumber Section 1571.71 of, the Health and Safety Code, to amend Sections 779.11, 790.037, 1063.1, 1063.2, 1765, 10123.145, 12693.43, and 12957 of, and to repeal Section 10232.2 of, the Insurance Code, to amend Sections 87, 2699.5, and 3702.1 of the Labor Code, to amend Section 1023 of the Military and Veterans Code, to amend Sections 166, 326.4, 599f, 626.2, 626.8, 653.2, 831.5, 1170.3, 1369.1, 12011, 12071, 12076, and 13777.2 of the Penal Code, to amend Section 3140 of the Probate Code, to amend Section 7103 of the Public Contract Code, to amend Sections 4291, 14514.7, 14581, 29735, 41825, 71205.3, and 75125 of the Public Resources Code, to amend Sections 739, 99171, 101223, 103311, 120508, 130680, 130720, and 240308 of, and to amend and renumber Section 281 of, the Public Utilities Code, to amend Sections 7093.6, 18862, and 19551.5 of the Revenue and Taxation Code, to amend Sections 164.53, 1967.10, and 30914 of the Streets and Highways Code, to amend Sections 1808.4, 4156, 22651, and 26708 of the Vehicle Code, to amend Sections 35521, 79441, and 83002 of the Water Code, to amend Sections 223.1, 241.1, 391, 903.1, 4688.6, 4691, 4783, 4860, 5777, 11402.6, 12315, 14005.25, 14007.9, 14011.16, 14091.3, 14105.19, 14105.191, 14105.3, 14105.86, 14107.2, 14126.033, 14126.034, 14132.725, 14154, 14154.5, 14166.9, 14166.25, 14199.2, 14301.1, 14526.1, and 15660 of, and to amend and renumber Section 618.5 of, the Welfare and Institutions Code, and to amend Section 5 of Chapter 898 of the Statutes of 1997, Section 2 of Chapter 235 of the Statutes of 2008, and Section 65 of Chapter 758 of the Statutes of 2008, and to add Section 3 to Chapter 635 of the Statutes of 1999, relating to the maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1164, as amended, Tran. 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:

1 SECTION 1. Section 315 of the Business and Professions Code
2 is amended to read:
3 315. (a) For the purpose of determining uniform standards
4 that will be used by healing arts boards in dealing with
5 substance-abusing licensees, there is established in the Department
6 of Consumer Affairs the Substance Abuse Coordination
7 Committee. The committee shall be comprised of the executive
8 officers of the department's healing arts boards established pursuant
9 to Division 2 (commencing with Section 500), the State Board of
10 Chiropractic Examiners, the Osteopathic Medical Board of
11 California, and a designee of the State Department of Alcohol and
12 Drug Programs. The Director of Consumer Affairs shall chair the
13 committee and may invite individuals or stakeholders who have
14 particular expertise in the area of substance abuse to advise the
15 committee.
16 (b) The committee shall be subject to the Bagley-Keene Open
17 Meeting Act (Article 9 (commencing with Section 11120) of
18 Division 3 of Title 2 of the Government Code).
19 (c) By January 1, 2010, the committee shall formulate uniform
20 and specific standards in each of the following areas that each
21 healing arts board shall use in dealing with substance-abusing
22 licensees, whether or not a board chooses to have a formal
23 diversion program:
24 (1) Specific requirements for a clinical diagnostic evaluation of
25 the licensee, including, but not limited to, required qualifications
26 for the providers evaluating the licensee.
27 (2) Specific requirements for the temporary removal of the
28 licensee from practice, in order to enable the licensee to undergo
29 the clinical diagnostic evaluation described in paragraph (1) and
30 any treatment recommended by the evaluator described in
31 paragraph (1) and approved by the board, and specific criteria that
32 the licensee must meet before being permitted to return to practice
33 on a full-time or part-time basis.

1 (3) Specific requirements that govern the ability of the licensing
2 board to communicate with the licensee’s employer about the
3 licensee’s status and condition.

4 (4) Standards governing all aspects of required testing, including,
5 but not limited to, frequency of testing, randomness, method of
6 notice to the licensee, number of hours between the provision of
7 notice and the test, standards for specimen collectors, procedures
8 used by specimen collectors, the permissible locations of testing,
9 whether the collection process must be observed by the collector,
10 backup testing requirements when the licensee is on vacation or
11 otherwise unavailable for local testing, requirements for the
12 laboratory that analyzes the specimens, and the required maximum
13 timeframe from the test to the receipt of the result of the test.

14 (5) Standards governing all aspects of group meeting attendance
15 requirements, including, but not limited to, required qualifications
16 for group meeting facilitators, frequency of required meeting
17 attendance, and methods of documenting and reporting attendance
18 or nonattendance by licensees.

19 (6) Standards used in determining whether inpatient, outpatient,
20 or other type of treatment is necessary.

21 (7) Worksite monitoring requirements and standards, including,
22 but not limited to, required qualifications of worksite monitors,
23 required methods of monitoring by worksite monitors, and required
24 reporting by worksite monitors.

25 (8) Procedures to be followed when a licensee tests positive for
26 a banned substance.

27 (9) Procedures to be followed when a licensee is confirmed to
28 have ingested a banned substance.

29 (10) Specific consequences for major violations and minor
30 violations. In particular, the committee shall consider the use of a
31 “deferred prosecution” stipulation similar to the stipulation
32 described in Section 1000 of the Penal Code, in which the licensee
33 admits to self-abuse of drugs or alcohol and surrenders his or her
34 license. That agreement is deferred by the agency unless or until
35 the licensee commits a major violation, in which case it is revived
36 and the license is surrendered.

37 (11) Criteria that a licensee must meet in order to petition for
38 return to practice on a full-time basis.

39 (12) Criteria that a licensee must meet in order to petition for
40 reinstatement of a full and unrestricted license.

1 (13) If a board uses a private-sector vendor that provides
2 diversion services, standards for immediate reporting by the vendor
3 to the board of any and all noncompliance with any term of the
4 diversion contract or probation; standards for the vendor's approval
5 process for providers or contractors that provide diversion services,
6 including, but not limited to, specimen collectors, group meeting
7 facilitators, and worksite monitors; standards requiring the vendor
8 to disapprove and discontinue the use of providers or contractors
9 that fail to provide effective or timely diversion services; and
10 standards for a licensee's termination from the program and referral
11 to enforcement.

12 (14) If a board uses a private-sector vendor that provides
13 diversion services, the extent to which licensee participation in
14 that program shall be kept confidential from the public.

15 (15) If a board uses a private-sector vendor that provides
16 diversion services, a schedule for external independent audits of
17 the vendor's performance in adhering to the standards adopted by
18 the committee.

19 (16) Measurable criteria and standards to determine whether
20 each board's method of dealing with substance-abusing licensees
21 protects patients from harm and is effective in assisting its licensees
22 in recovering from substance abuse in the long term.

23 SEC. 2. Section 650 of the Business and Professions Code is
24 amended to read:

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

35 (b) The payment or receipt of consideration for services other
36 than the referral of patients which is based on a percentage of gross
37 revenue or similar type of contractual arrangement shall not be
38 unlawful if the consideration is commensurate with the value of
39 the services furnished or with the fair rental value of any premises
40 or equipment leased or provided by the recipient to the payer.

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

12 (d) Except as provided in Chapter 2.3 (commencing with Section
13 1400) of Division 2 of the Health and Safety Code and in Sections
14 654.1 and 654.2 of this code, it shall not be unlawful for any person
15 licensed under this division to refer a person to any laboratory,
16 pharmacy, clinic (including entities exempt from licensure pursuant
17 to Section 1206 of the Health and Safety Code), or health care
18 facility solely because the licensee has a proprietary interest or
19 coownership in the laboratory, pharmacy, clinic, or health care
20 facility, provided, however, that the licensee's return on investment
21 for that proprietary interest or coownership shall be based upon
22 the amount of the capital investment or proportional ownership of
23 the licensee which ownership interest is not based on the number
24 or value of any patients referred. Any referral excepted under this
25 section shall be unlawful if the prosecutor proves that there was
26 no valid medical need for the referral.

27 (e) Except as provided in Chapter 2.3 (commencing with Section
28 1400) of Division 2 of the Health and Safety Code and in Sections
29 654.1 and 654.2 of this code, it shall not be unlawful to provide
30 nonmonetary remuneration, in the form of hardware, software, or
31 information technology and training services, as described in
32 subsections (x) and (y) of Section 1001.952 of Title 42 of the Code
33 of Federal Regulations, as amended October 4, 2007, as published
34 in the Federal Register (72 Fed. Reg. 56632 and 56644), and
35 subsequently amended versions.

36 (f) "Health care facility" means a general acute care hospital,
37 acute psychiatric hospital, skilled nursing facility, intermediate
38 care facility, and any other health facility licensed by the State
39 Department of Public Health under Chapter 2 (commencing with
40 Section 1250) of Division 2 of the Health and Safety Code.

1 (g) A violation of this section is a public offense and is
2 punishable upon a first conviction by imprisonment in a county
3 jail for not more than one year, or by imprisonment in the state
4 prison, or by a fine not exceeding fifty thousand dollars (\$50,000),
5 or by both that imprisonment and fine. A second or subsequent
6 conviction is punishable by imprisonment in the state prison or by
7 imprisonment in the state prison and a fine of fifty thousand dollars
8 (\$50,000).

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

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

13 (1) In 1986, Congress enacted the Health Care Quality
14 Improvement Act of 1986 (42 U.S.C. Sec. 11101 et seq.), to
15 encourage physicians to engage in effective professional peer
16 review, but giving each state the opportunity to “opt-out” of some
17 of the provisions of the federal act.

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

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

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

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

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

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

1 (8) Sections 809 to 809.8, inclusive, shall not affect the
2 respective responsibilities of the organized medical staff or the
3 governing body of an acute care hospital with respect to peer
4 review in the acute care hospital setting. It is the intent of the
5 Legislature that written provisions implementing Sections 809 to
6 809.8, inclusive, in the acute care hospital setting shall be included
7 in medical staff bylaws that shall be adopted by a vote of the
8 members of the organized medical staff and shall be subject to
9 governing body approval, which approval shall not be withheld
10 unreasonably.

11 (9) (A) The Legislature thus finds and declares that the laws
12 of this state pertaining to the peer review of healing arts
13 practitioners shall apply in lieu of Section 11101 and following of
14 Title 42 of the United States Code, because the laws of this state
15 provide a more careful articulation of the protections for both those
16 undertaking peer review activity and those subject to review, and
17 better integrate public and private systems of peer review.
18 Therefore, California exercises its right to opt out of specified
19 provisions of the Health Care Quality Improvement Act relating
20 to professional review actions, pursuant to Section 11111(c)(2)(B)
21 of Title 42 of the United States Code. This election shall not affect
22 the availability of any immunity under California law.

23 (B) The Legislature further declares that it is not the intent or
24 purpose of Sections 809 to 809.8, inclusive, to opt out of any
25 mandatory national data bank established pursuant to Section
26 11131 and following of Title 42 of the United States Code.

27 (b) For the purpose of this section and Sections 809.1 to 809.8,
28 inclusive, “healing arts practitioner” or “licentiate” means a
29 physician and surgeon, podiatrist, clinical psychologist, marriage
30 and family therapist, clinical social worker, or dentist; and “peer
31 review body” means a peer review body as specified in paragraph
32 (1) of subdivision (a) of Section 805, and includes any designee
33 of the peer review body.

34 SEC. 4. Section 1627.5 of the Business and Professions Code
35 is amended to read:

36 1627.5. (a) No person licensed under this chapter, who in good
37 faith renders emergency care at the scene of an emergency
38 occurring outside the place of that person’s practice, or who, upon
39 the request of another person so licensed, renders emergency care
40 to a person for a complication arising from prior care of another

1 person so licensed, shall be liable for any civil damages as a result
2 of any acts or omissions by that person in rendering the emergency
3 care.

4 (b) A person licensed under this chapter who voluntarily and
5 without compensation or expectation of compensation, and
6 consistent with the dental education and emergency training that
7 he or she has received, provides emergency medical care to a
8 person during a state of emergency declared pursuant to a
9 proclamation issued pursuant to Section 8588, 8625, or 8630 of
10 the Government Code or a declaration of health emergency issued
11 pursuant to Section 101080 of the Health and Safety Code shall
12 not be liable in negligence for any personal injury, wrongful death,
13 or property damage caused by the licensee's good faith but
14 negligent act or omission. This subdivision shall not provide
15 immunity for acts or omissions of gross negligence or willful
16 misconduct. This subdivision does not limit any immunity provided
17 under subdivision (a).

18 (c) Notwithstanding any other provision of law, for the duration
19 of a declared state of emergency, pursuant to a proclamation of
20 emergency issued pursuant to Section 8625 of the Government
21 Code, the board may suspend compliance with any provision of
22 this chapter or regulation adopted thereunder that would adversely
23 affect a licensee's ability to provide emergency services.

24 SEC. 5. Section 1754.5 of the Business and Professions Code
25 is amended to read:

26 1754.5. As used in this article, the following definitions shall
27 apply:

28 (a) "Clinical instruction" means instruction in which students
29 receive supervised experience in performing procedures in a
30 clinical setting on patients. Clinical instruction shall only be
31 performed upon successful demonstration and evaluation of
32 preclinical skills. There shall be at least one instructor for every
33 six students who are simultaneously engaged in clinical instruction.

34 (b) "Didactic instruction" means lectures, demonstrations, and
35 other instruction without active participation by students. The
36 approved provider or its designee may provide didactic instruction
37 via electronic media, home study materials, or live lecture
38 methodology if the provider has submitted that content for
39 approval.

1 (c) “Laboratory instruction” means instruction in which students
2 receive supervised experience performing procedures using study
3 models, mannequins, or other simulation methods. There shall be
4 at least one instructor for every 14 students who are simultaneously
5 engaged in laboratory instruction.

6 (d) “Preclinical instruction” means instruction in which students
7 receive supervised experience performing procedures on students,
8 faculty, or staff members. There shall be at least one instructor for
9 every six students who are simultaneously engaged in preclinical
10 instruction.

11 (e) This section shall remain in effect only until January 1, 2011,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2011, deletes or extends that date.

14 SEC. 6. Section 1915 of the Business and Professions Code is
15 amended to read:

16 1915. No person other than a registered dental hygienist,
17 registered dental hygienist in alternative functions, or registered
18 dental hygienist in extended functions or a licensed dentist may
19 engage in the practice of dental hygiene or perform dental hygiene
20 procedures on patients, including, but not limited to, supragingival
21 and subgingival scaling, dental hygiene assessment, and treatment
22 planning, except for the following persons:

23 (a) A student enrolled in a dental or a dental hygiene school
24 who is performing procedures as part of the regular curriculum of
25 that program under the supervision of the faculty of that program.

26 (b) A dental assistant acting in accordance with the rules of the
27 dental board in performing the following procedures:

28 (1) Applying nonaerosol and noncaustic topical agents.

29 (2) Applying topical fluoride.

30 (3) Taking impressions for bleaching trays.

31 (c) A registered dental assistant acting in accordance with the
32 rules of the dental board in performing the following procedures:

33 (1) Polishing the coronal surfaces of teeth.

34 (2) Applying bleaching agents.

35 (3) Activating bleaching agents with a nonlaser light-curing
36 device.

37 (4) Applying pit and fissure sealant.

38 (d) A registered dental assistant in extended functions acting in
39 accordance with the rules of the dental board in applying pit and
40 fissure sealants.

1 (e) A registered dental hygienist, registered dental hygienist in
2 alternative practice, or registered dental hygienist in extended
3 functions licensed in another jurisdiction, performing a clinical
4 demonstration for educational purposes.

5 SEC. 7. Section 1925 of the Business and Professions Code is
6 amended to read:

7 1925. A registered dental hygienist in alternative practice may
8 practice, pursuant to subdivision (a) of Section 1907, subdivision
9 (a) of Section 1908, and subdivisions (a) and (b) of Section 1910,
10 as an employee of a dentist or of another registered dental hygienist
11 in alternative practice, as an independent contractor, as a sole
12 proprietor of an alternative dental hygiene practice, as an employee
13 of a primary care clinic or specialty clinic that is licensed pursuant
14 to Section 1204 of the Health and Safety Code, as an employee of
15 a primary care clinic exempt from licensure pursuant to subdivision
16 (c) of Section 1206 of the Health and Safety Code, as an employee
17 of a clinic owned or operated by a public hospital or health system,
18 or as an employee of a clinic owned and operated by a hospital
19 that maintains the primary contract with a county government to
20 fill the county's role under Section 17000 of the Welfare and
21 Institutions Code.

22 SEC. 8. Section 1950 of the Business and Professions Code is
23 amended to read:

24 1950. (a) A licensee may have his or her license revoked or
25 suspended, or may be reprimanded or placed on probation by the
26 committee, for conviction of a crime substantially related to the
27 licensee's qualifications, functions, or duties. The record of
28 conviction or a copy certified by the clerk of the court or by the
29 judge in whose court the conviction occurred shall be conclusive
30 evidence of conviction.

31 (b) The committee shall undertake proceedings under this section
32 upon the receipt of a certified copy of the record of conviction. A
33 plea or verdict of guilty or a conviction following a plea of nolo
34 contendere made to a charge of a felony or of any misdemeanor
35 substantially related to the licensee's qualifications, functions, or
36 duties is deemed to be a conviction within the meaning of this
37 section.

38 (c) The committee may order a license suspended or revoked,
39 or may decline to issue a license, when any of the following occur:

40 (1) The time for appeal has elapsed.

1 (2) The judgment of conviction has been affirmed on appeal.

2 (3) An order granting probation is made suspending the
3 imposition of sentence, irrespective of a subsequent order under
4 any provision of the Penal Code, including, but not limited to,
5 Section 1203.4 of the Penal Code, allowing a person to withdraw
6 his or her plea of guilty and to enter a plea of not guilty, or setting
7 aside the verdict of guilty, or dismissing the accusation,
8 information, or indictment.

9 SEC. 9. Section 2361 of the Business and Professions Code is
10 amended to read:

11 2361. As used in this article:

12 (a) "Board" means the Osteopathic Medical Board of California.

13 (b) "Diversion program" means a treatment program created
14 by this article for osteopathic physicians and surgeons whose
15 competency may be threatened or diminished due to abuse of drugs
16 or alcohol.

17 (c) "Committee" means a diversion evaluation committee
18 created by this article.

19 (d) "Participant" means a California-licensed osteopathic
20 physician and surgeon.

21 (e) "Program manager" means the staff manager of the diversion
22 program, as designated by the executive officer of the board. The
23 program manager shall have background experience in dealing
24 with substance abuse issues.

25 SEC. 10. Section 2660.3 of the Business and Professions Code
26 is amended to read:

27 2660.3. In lieu of filing or prosecuting a formal accusation
28 against a licensee, the board may, upon stipulation or agreement
29 by the licensee, issue a public letter of reprimand after it has
30 conducted an investigation or inspection as provided for in this
31 chapter. The board shall notify the licensee of its intention to issue
32 the letter 30 days before the intended issuance date of the letter.
33 The licensee shall indicate in writing at least 15 days prior to the
34 letter's intended issuance date whether he or she agrees to the
35 issuance of the letter. The board, at its option, may extend the time
36 within which the licensee may respond to its notification. If the
37 licensee does not agree to the issuance of the letter, the board shall
38 not issue the letter and may proceed to file the accusation. The
39 board may use a public letter of reprimand only for minor
40 violations, as defined by the board, committed by the licensee. A

1 public letter of reprimand issued pursuant to this section shall be
2 disclosed by the board to an inquiring member of the public and
3 shall be posted on the board's Internet Web site.

4 SEC. 11. Section 3041 of the Business and Professions Code
5 is amended to read:

6 3041. (a) The practice of optometry includes the prevention
7 and diagnosis of disorders and dysfunctions of the visual system,
8 and the treatment and management of certain disorders and
9 dysfunctions of the visual system, as well as the provision of
10 rehabilitative optometric services, and is the doing of any or all of
11 the following:

12 (1) The examination of the human eye or eyes, or its or their
13 appendages, and the analysis of the human vision system, either
14 subjectively or objectively.

15 (2) The determination of the powers or range of human vision
16 and the accommodative and refractive states of the human eye or
17 eyes, including the scope of its or their functions and general
18 condition.

19 (3) The prescribing or directing the use of, or using, any optical
20 device in connection with ocular exercises, visual training, vision
21 training, or orthoptics.

22 (4) The prescribing of contact and spectacle lenses for, or the
23 fitting or adaptation of contact and spectacle lenses to, the human
24 eye, including lenses that may be classified as drugs or devices by
25 any law of the United States or of this state.

26 (5) The use of topical pharmaceutical agents for the purpose of
27 the examination of the human eye or eyes for any disease or
28 pathological condition.

29 (b) (1) An optometrist who is certified to use therapeutic
30 pharmaceutical agents, pursuant to Section 3041.3, may also
31 diagnose and treat the human eye or eyes, or any of its or their
32 appendages, for all of the following conditions:

33 (A) Through medical treatment, infections of the anterior
34 segment and adnexa, excluding the lacrimal gland, the lacrimal
35 drainage system, and the sclera in patients under 12 years of age.

36 (B) Ocular allergies of the anterior segment and adnexa.

37 (C) Ocular inflammation, nonsurgical in cause except when
38 comanaged with the treating physician and surgeon, limited to
39 inflammation resulting from traumatic iritis, peripheral corneal
40 inflammatory keratitis, episcleritis, and unilateral nonrecurrent

1 nongranulomatous idiopathic iritis in patients over 18 years of age.
2 Unilateral nongranulomatous idiopathic iritis recurring within one
3 year of the initial occurrence shall be referred to an
4 ophthalmologist. An optometrist shall consult with an
5 ophthalmologist or appropriate physician and surgeon if a patient
6 has a recurrent case of episcleritis within one year of the initial
7 occurrence. An optometrist shall consult with an ophthalmologist
8 or appropriate physician and surgeon if a patient has a recurrent
9 case of peripheral corneal inflammatory keratitis within one year
10 of the initial occurrence.

11 (D) Traumatic or recurrent conjunctival or corneal abrasions
12 and erosions.

13 (E) Corneal surface disease and dry eyes.

14 (F) Ocular pain, nonsurgical in cause except when comanaged
15 with the treating physician and surgeon, associated with conditions
16 optometrists are authorized to treat.

17 (G) Pursuant to subdivision (f), glaucoma in patients over 18
18 years of age, as described in subdivision (j).

19 (2) For purposes of this section, “treat” means the use of
20 therapeutic pharmaceutical agents, as described in subdivision (c),
21 and the procedures described in subdivision (e).

22 (c) In diagnosing and treating the conditions listed in subdivision
23 (b), an optometrist certified to use therapeutic pharmaceutical
24 agents pursuant to Section 3041.3 may use all of the following
25 therapeutic pharmaceutical agents:

26 (1) Pharmaceutical agents as described in paragraph (5) of
27 subdivision (a), as well as topical miotics.

28 (2) Topical lubricants.

29 (3) Antiallergy agents. In using topical steroid medication for
30 the treatment of ocular allergies, an optometrist shall consult with
31 an ophthalmologist if the patient’s condition worsens 21 days after
32 diagnosis.

33 (4) Topical and oral antiinflammatories. In using steroid
34 medication for:

35 (A) Unilateral nonrecurrent nongranulomatous idiopathic iritis
36 or episcleritis, an optometrist shall consult with an ophthalmologist
37 or appropriate physician and surgeon if the patient’s condition
38 worsens 72 hours after the diagnosis, or if the patient’s condition
39 has not resolved three weeks after diagnosis. If the patient is still
40 receiving medication for these conditions six weeks after diagnosis,

1 the optometrist shall refer the patient to an ophthalmologist or
2 appropriate physician and surgeon.

3 (B) Peripheral corneal inflammatory keratitis, excluding
4 Moorens and Terriens diseases, an optometrist shall consult with
5 an ophthalmologist or appropriate physician and surgeon if the
6 patient's condition worsens 72 hours after diagnosis.

7 (C) Traumatic iritis, an optometrist shall consult with an
8 ophthalmologist or appropriate physician and surgeon if the
9 patient's condition worsens 72 hours after diagnosis and shall refer
10 the patient to an ophthalmologist or appropriate physician and
11 surgeon if the patient's condition has not resolved one week after
12 diagnosis.

13 (5) Topical antibiotic agents.

14 (6) Topical hyperosmotics.

15 (7) Topical and oral antiglaucoma agents pursuant to the
16 certification process defined in subdivision (f).

17 (A) The optometrist shall refer the patient to an ophthalmologist
18 if requested by the patient or if angle closure glaucoma develops.

19 (B) If the glaucoma patient also has diabetes, the optometrist
20 shall consult with the physician treating the patient's diabetes in
21 developing the glaucoma treatment plan and shall inform the
22 physician in writing of any changes in the patient's glaucoma
23 medication.

24 (8) Nonprescription medications used for the rational treatment
25 of an ocular disorder.

26 (9) Oral antihistamines.

27 (10) Prescription oral nonsteroidal antiinflammatory agents.

28 (11) Oral antibiotics for medical treatment of ocular disease.

29 (A) If the patient has been diagnosed with a central corneal ulcer
30 and the central corneal ulcer has not improved 48 hours after
31 diagnosis, the optometrist shall refer the patient to an
32 ophthalmologist.

33 (B) If the patient has been diagnosed with preseptal cellulitis
34 or dacryocystitis and the condition has not improved 48 hours after
35 diagnosis, the optometrist shall refer the patient to an
36 ophthalmologist.

37 (12) Topical and oral antiviral medication for the medical
38 treatment of the following: herpes simplex viral keratitis, herpes
39 simplex viral conjunctivitis, and periocular herpes simplex viral

1 dermatitis; and varicella zoster viral keratitis, varicella zoster viral
2 conjunctivitis, and periocular varicella zoster viral dermatitis.

3 (A) If the patient has been diagnosed with herpes simplex
4 keratitis or varicella zoster viral keratitis and the patient's condition
5 has not improved seven days after diagnosis, the optometrist shall
6 refer the patient to an ophthalmologist. If a patient's condition has
7 not resolved three weeks after diagnosis, the optometrist shall refer
8 the patient to an ophthalmologist.

9 (B) If the patient has been diagnosed with herpes simplex viral
10 conjunctivitis, herpes simplex viral dermatitis, varicella zoster
11 viral conjunctivitis, or varicella zoster viral dermatitis, and if the
12 patient's condition worsens seven days after diagnosis, the
13 optometrist shall consult with an ophthalmologist. If the patient's
14 condition has not resolved three weeks after diagnosis, the
15 optometrist shall refer the patient to an ophthalmologist.

16 (13) Oral analgesics that are not controlled substances.

17 (14) Codeine with compounds and hydrocodone with
18 compounds as listed in the California Uniform Controlled
19 Substances Act (Division 10 (commencing with Section 11000)
20 of the Health and Safety Code) and the United States Uniform
21 Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use
22 of these agents shall be limited to three days, with a referral to an
23 ophthalmologist if the pain persists.

24 (d) In any case where this chapter requires that an optometrist
25 consult with an ophthalmologist, the optometrist shall maintain a
26 written record in the patient's file of the information provided to
27 the ophthalmologist, the ophthalmologist's response, and any other
28 relevant information. Upon the consulting ophthalmologist's
29 request and with the patient's consent, the optometrist shall furnish
30 a copy of the record to the ophthalmologist.

31 (e) An optometrist who is certified to use therapeutic
32 pharmaceutical agents pursuant to Section 3041.3 may also perform
33 all of the following:

- 34 (1) Corneal scraping with cultures.
- 35 (2) Debridement of corneal epithelia.
- 36 (3) Mechanical epilation.
- 37 (4) Venipuncture for testing patients suspected of having
38 diabetes.
- 39 (5) Suture removal, with prior consultation with the treating
40 physician and surgeon.

1 (6) Treatment or removal of sebaceous cysts by expression.

2 (7) Administration of oral fluorescein to patients suspected as
3 having diabetic retinopathy.

4 (8) Use of an auto-injector to counter anaphylaxis.

5 (9) Ordering of smears, cultures, sensitivities, complete blood
6 count, mycobacterial culture, acid fast stain, urinalysis, and X-rays
7 necessary for the diagnosis of conditions or diseases of the eye or
8 adnexa. An optometrist may order other types of images subject
9 to prior consultation with an ophthalmologist or appropriate
10 physician and surgeon.

11 (10) Punctal occlusion by plugs, excluding laser, diathermy,
12 cryotherapy, or other means constituting surgery as defined in this
13 chapter.

14 (11) The prescription of therapeutic contact lenses, including
15 lenses or devices that incorporate a medication or therapy the
16 optometrist is certified to prescribe or provide.

17 (12) Removal of foreign bodies from the cornea, eyelid, and
18 conjunctiva with any appropriate instrument other than a scalpel
19 or needle. Corneal foreign bodies shall be nonperforating, be no
20 deeper than the midstroma, and require no surgical repair upon
21 removal.

22 (13) For patients over 12 years of age, lacrimal irrigation and
23 dilation, excluding probing of the nasal lacrimal tract. The board
24 shall certify any optometrist who graduated from an accredited
25 school of optometry before May 1, 2000, to perform this procedure
26 after submitting proof of satisfactory completion of 10 procedures
27 under the supervision of an ophthalmologist as confirmed by the
28 ophthalmologist. Any optometrist who graduated from an
29 accredited school of optometry on or after May 1, 2000, shall be
30 exempt from the certification requirement contained in this
31 paragraph.

32 (f) The board shall grant a certificate to an optometrist certified
33 pursuant to Section 3041.3 for the treatment of glaucoma, as
34 described in subdivision (j), in patients over 18 years of age after
35 the optometrist meets the following applicable requirements:

36 (1) For licensees who graduated from an accredited school of
37 optometry on or after May 1, 2008, submission of proof of
38 graduation from that institution.

1 (2) For licensees who were certified to treat glaucoma under
2 this section prior to January 1, 2009, submission of proof of
3 completion of that certification program.

4 (3) For licensees who have substantially completed the
5 certification requirements pursuant to this section in effect between
6 January 1, 2001, and December 31, 2008, submission of proof of
7 completion of those requirements on or before December 31, 2009.
8 “Substantially completed” means both of the following:

9 (A) Satisfactory completion of a didactic course of not less than
10 24 hours in the diagnosis, pharmacological, and other treatment
11 and management of glaucoma.

12 (B) Treatment of 50 glaucoma patients with a collaborating
13 ophthalmologist for a period of two years for each patient that will
14 conclude on or before December 31, 2009.

15 (4) For licensees who completed a didactic course of not less
16 than 24 hours in the diagnosis, pharmacological, and other
17 treatment and management of glaucoma, submission of proof of
18 satisfactory completion of the case management requirements for
19 certification established by the board pursuant to Section 3041.10.

20 (5) For licensees who graduated from an accredited school of
21 optometry on or before May 1, 2008, and not described in
22 paragraph (2), (3), or (4), submission of proof of satisfactory
23 completion of the requirements for certification established by the
24 board pursuant to Section 3041.10.

25 (g) Other than for prescription ophthalmic devices described in
26 subdivision (b) of Section 2541, any dispensing of a therapeutic
27 pharmaceutical agent by an optometrist shall be without charge.

28 (h) The practice of optometry does not include performing
29 surgery. “Surgery” means any procedure in which human tissue
30 is cut, altered, or otherwise infiltrated by mechanical or laser
31 means. “Surgery” does not include those procedures specified in
32 subdivision (e). Nothing in this section shall limit an optometrist’s
33 authority to utilize diagnostic laser and ultrasound technology
34 within his or her scope of practice.

35 (i) An optometrist licensed under this chapter is subject to the
36 provisions of Section 2290.5 for purposes of practicing
37 telemedicine.

38 (j) For purposes of this chapter, “glaucoma” means either of the
39 following:

40 (1) All primary open-angle glaucoma.

1 (2) Exfoliation and pigmentary glaucoma.

2 (k) In an emergency, an optometrist shall stabilize, if possible,
3 and immediately refer any patient who has an acute attack of angle
4 closure to an ophthalmologist.

5 SEC. 12. Section 4060 of the Business and Professions Code
6 is amended to read:

7 4060. No person shall possess any controlled substance, except
8 that furnished to a person upon the prescription of a physician,
9 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
10 pursuant to Section 3640.7, or furnished pursuant to a drug order
11 issued by a certified nurse-midwife pursuant to Section 2746.51,
12 a nurse practitioner pursuant to Section 2836.1, a physician
13 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant
14 to Section 3640.5, or a pharmacist pursuant to either subparagraph
15 (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of
16 paragraph (5) of, subdivision (a) of Section 4052. This section
17 shall not apply to the possession of any controlled substance by a
18 manufacturer, wholesaler, pharmacy, pharmacist, physician,
19 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor,
20 certified nurse-midwife, nurse practitioner, or physician assistant,
21 when in stock in containers correctly labeled with the name and
22 address of the supplier or producer.

23 This section does not authorize a certified nurse-midwife, a nurse
24 practitioner, a physician assistant, or a naturopathic doctor to order
25 his or her own stock of dangerous drugs and devices.

26 SEC. 13. Section 4200 of the Business and Professions Code
27 is amended to read:

28 4200. (a) The board may license as a pharmacist an applicant
29 who meets all the following requirements:

30 (1) Is at least 18 years of age.

31 (2) (A) Has graduated from a college of pharmacy or
32 department of pharmacy of a university recognized by the board;
33 or

34 (B) If the applicant graduated from a foreign pharmacy school,
35 the foreign-educated applicant has been certified by the Foreign
36 Pharmacy Graduate Examination Committee.

37 (3) Has completed at least 150 semester units of collegiate study
38 in the United States, or the equivalent thereof in a foreign country.
39 No less than 90 of those semester units shall have been completed
40 while in resident attendance at a school or college of pharmacy.

1 (4) Has earned at least a baccalaureate degree in a course of
2 study devoted to the practice of pharmacy.

3 (5) Has completed 1,500 hours of pharmacy practice experience
4 or the equivalent in accordance with Section 4209.

5 (6) Has passed a written and practical examination given by the
6 board prior to December 31, 2003, or has passed the North
7 American Pharmacist Licensure Examination and the California
8 Practice Standards and Jurisprudence Examination for Pharmacists
9 on or after January 1, 2004.

10 (b) Proof of the qualifications of an applicant for licensure as a
11 pharmacist shall be made to the satisfaction of the board and shall
12 be substantiated by affidavits or other evidence as may be required
13 by the board.

14 (c) Each person, upon application for licensure as a pharmacist
15 under this chapter, shall pay to the executive officer of the board
16 the fees provided by this chapter. The fees shall be compensation
17 to the board for investigation or examination of the applicant.

18 SEC. 14. Section 4301 of the Business and Professions Code
19 is amended to read:

20 4301. The board shall take action against any holder of a license
21 who is guilty of unprofessional conduct or whose license has been
22 procured by fraud or misrepresentation or issued by mistake.
23 Unprofessional conduct shall include, but is not limited to, any of
24 the following:

25 (a) Gross immorality.

26 (b) Incompetence.

27 (c) Gross negligence.

28 (d) The clearly excessive furnishing of controlled substances
29 in violation of subdivision (a) of Section 11153 of the Health and
30 Safety Code.

31 (e) The clearly excessive furnishing of controlled substances in
32 violation of subdivision (a) of Section 11153.5 of the Health and
33 Safety Code. Factors to be considered in determining whether the
34 furnishing of controlled substances is clearly excessive shall
35 include, but not be limited to, the amount of controlled substances
36 furnished, the previous ordering pattern of the customer (including
37 size and frequency of orders), the type and size of the customer,
38 and where and to whom the customer distributes its product.

39 (f) The commission of any act involving moral turpitude,
40 dishonesty, fraud, deceit, or corruption, whether the act is

1 committed in the course of relations as a licensee or otherwise,
2 and whether the act is a felony or misdemeanor or not.

3 (g) Knowingly making or signing any certificate or other
4 document that falsely represents the existence or nonexistence of
5 a state of facts.

6 (h) The administering to oneself of any controlled substance,
7 or the use of any dangerous drug or of alcoholic beverages to the
8 extent or in a manner as to be dangerous or injurious to oneself,
9 to a person holding a license under this chapter, or to any other
10 person or to the public, or to the extent that the use impairs the
11 ability of the person to conduct with safety to the public the practice
12 authorized by the license.

13 (i) Except as otherwise authorized by law, knowingly selling,
14 furnishing, giving away, or administering, or offering to sell,
15 furnish, give away, or administer, any controlled substance to an
16 addict.

17 (j) The violation of any of the statutes of this state, of any other
18 state, or of the United States regulating controlled substances and
19 dangerous drugs.

20 (k) The conviction of more than one misdemeanor or any felony
21 involving the use, consumption, or self-administration of any
22 dangerous drug or alcoholic beverage, or any combination of those
23 substances.

24 (l) The conviction of a crime substantially related to the
25 qualifications, functions, and duties of a licensee under this chapter.
26 The record of conviction of a violation of Section 801 and
27 following of Title 21 of the United States Code regulating
28 controlled substances or of a violation of the statutes of this state
29 regulating controlled substances or dangerous drugs shall be
30 conclusive evidence of unprofessional conduct. In all other cases,
31 the record of conviction shall be conclusive evidence only of the
32 fact that the conviction occurred. The board may inquire into the
33 circumstances surrounding the commission of the crime, in order
34 to fix the degree of discipline or, in the case of a conviction not
35 involving controlled substances or dangerous drugs, to determine
36 if the conviction is of an offense substantially related to the
37 qualifications, functions, and duties of a licensee under this chapter.
38 A plea or verdict of guilty or a conviction following a plea of nolo
39 contendere is deemed to be a conviction within the meaning of
40 this provision. The board may take action when the time for appeal

1 has elapsed, or the judgment of conviction has been affirmed on
2 appeal or when an order granting probation is made suspending
3 the imposition of sentence, irrespective of a subsequent order under
4 Section 1203.4 of the Penal Code allowing the person to withdraw
5 his or her plea of guilty and to enter a plea of not guilty, or setting
6 aside the verdict of guilty, or dismissing the accusation,
7 information, or indictment.

8 (m) The cash compromise of a charge of violation of Section
9 801 and following of Title 21 of the United States Code regulating
10 controlled substances or of Chapter 7 (commencing with Section
11 14000) of Part 3 of Division 9 of the Welfare and Institutions Code
12 relating to the Medi-Cal program. The record of the compromise
13 is conclusive evidence of unprofessional conduct.

14 (n) The revocation, suspension, or other discipline by another
15 state of a license to practice pharmacy, operate a pharmacy, or do
16 any other act for which a license is required by this chapter.

17 (o) Violating or attempting to violate, directly or indirectly, or
18 assisting in or abetting the violation of or conspiring to violate any
19 provision or term of this chapter or of the applicable federal and
20 state laws and regulations governing pharmacy, including
21 regulations established by the board or by any other state or federal
22 regulatory agency.

23 (p) Actions or conduct that would have warranted denial of a
24 license.

25 (q) Engaging in any conduct that subverts or attempts to subvert
26 an investigation of the board.

27 (r) The selling, trading, transferring, or furnishing of drugs
28 obtained pursuant to Section 256b of Title 42 of the United States
29 Code to any person a licensee knows or reasonably should have
30 known, not to be a patient of a covered entity, as defined in
31 paragraph (4) of subsection (a) of Section 256b of Title 42 of the
32 United States Code.

33 (s) The clearly excessive furnishing of dangerous drugs by a
34 wholesaler to a pharmacy that primarily or solely dispenses
35 prescription drugs to patients of long-term health care facilities.
36 Factors to be considered in determining whether the furnishing of
37 dangerous drugs is clearly excessive shall include, but not be
38 limited to, the amount of dangerous drugs furnished to a pharmacy
39 that primarily or solely dispenses prescription drugs to patients of
40 long-term health care facilities, the previous ordering pattern of

1 the pharmacy, and the general patient population to whom the
2 pharmacy distributes the dangerous drugs. That a wholesaler has
3 established, and employs, a tracking system that complies with
4 the requirements of subdivision (b) of Section 4164 shall be
5 considered in determining whether there has been a violation of
6 this subdivision. This provision shall not be interpreted to require
7 a wholesaler to obtain personal medical information or be
8 authorized to permit a wholesaler to have access to personal
9 medical information except as otherwise authorized by Part 2.6
10 (commencing with Section 56) of Division 1 of the Civil Code.

11 (t) This section shall become operative on January 1, 2006.

12 SEC. 15. Section 4989.54 of the Business and Professions
13 Code is amended to read:

14 4989.54. The board may deny a license or may suspend or
15 revoke the license of a licensee if he or she has been guilty of
16 unprofessional conduct. Unprofessional conduct includes, but is
17 not limited to, the following:

18 (a) Conviction of a crime substantially related to the
19 qualifications, functions, and duties of an educational psychologist.

20 (1) The record of conviction shall be conclusive evidence only
21 of the fact that the conviction occurred.

22 (2) The board may inquire into the circumstances surrounding
23 the commission of the crime in order to fix the degree of discipline
24 or to determine if the conviction is substantially related to the
25 qualifications, functions, or duties of a licensee under this chapter.

26 (3) A plea or verdict of guilty or a conviction following a plea
27 of nolo contendere made to a charge substantially related to the
28 qualifications, functions, or duties of a licensee under this chapter
29 shall be deemed to be a conviction within the meaning of this
30 section.

31 (4) The board may order a license suspended or revoked, or
32 may decline to issue a license when the time for appeal has elapsed,
33 or the judgment of conviction has been affirmed on appeal, or
34 when an order granting probation is made suspending the
35 imposition of sentence, irrespective of a subsequent order under
36 Section 1203.4 of the Penal Code allowing the person to withdraw
37 a plea of guilty and enter a plea of not guilty or setting aside the
38 verdict of guilty or dismissing the accusation, information, or
39 indictment.

1 (b) Securing a license by fraud, deceit, or misrepresentation on
2 an application for licensure submitted to the board, whether
3 engaged in by an applicant for a license or by a licensee in support
4 of an application for licensure.

5 (c) Administering to himself or herself a controlled substance
6 or using any of the dangerous drugs specified in Section 4022 or
7 an alcoholic beverage to the extent, or in a manner, as to be
8 dangerous or injurious to himself or herself or to any other person
9 or to the public or to the extent that the use impairs his or her ability
10 to safely perform the functions authorized by the license.

11 (d) Conviction of more than one misdemeanor or any felony
12 involving the use, consumption, or self-administration of any of
13 the substances referred to in subdivision (c) or any combination
14 thereof.

15 (e) Advertising in a manner that is false, misleading, or
16 deceptive.

17 (f) Violating, attempting to violate, or conspiring to violate any
18 of the provisions of this chapter or any regulation adopted by the
19 board.

20 (g) Commission of any dishonest, corrupt, or fraudulent act
21 substantially related to the qualifications, functions, or duties of a
22 licensee.

23 (h) Denial of licensure, revocation, suspension, restriction, or
24 any other disciplinary action imposed by another state or territory
25 or possession of the United States or by any other governmental
26 agency, on a license, certificate, or registration to practice
27 educational psychology or any other healing art. A certified copy
28 of the disciplinary action, decision, or judgment shall be conclusive
29 evidence of that action.

30 (i) Revocation, suspension, or restriction by the board of a
31 license, certificate, or registration to practice as a clinical social
32 worker or marriage and family therapist.

33 (j) Failure to keep records consistent with sound clinical
34 judgment, the standards of the profession, and the nature of the
35 services being rendered.

36 (k) Gross negligence or incompetence in the practice of
37 educational psychology.

38 (l) Misrepresentation as to the type or status of a license held
39 by the licensee or otherwise misrepresenting or permitting

1 misrepresentation of his or her education, professional
2 qualifications, or professional affiliations to any person or entity.

3 (m) Intentionally or recklessly causing physical or emotional
4 harm to any client.

5 (n) Engaging in sexual relations with a client or a former client
6 within two years following termination of professional services,
7 soliciting sexual relations with a client, or committing an act of
8 sexual abuse or sexual misconduct with a client or committing an
9 act punishable as a sexually related crime, if that act or solicitation
10 is substantially related to the qualifications, functions, or duties of
11 a licensed educational psychologist.

12 (o) Prior to the commencement of treatment, failing to disclose
13 to the client or prospective client the fee to be charged for the
14 professional services or the basis upon which that fee will be
15 computed.

16 (p) Paying, accepting, or soliciting any consideration,
17 compensation, or remuneration, whether monetary or otherwise,
18 for the referral of professional clients.

19 (q) Failing to maintain confidentiality, except as otherwise
20 required or permitted by law, of all information that has been
21 received from a client in confidence during the course of treatment
22 and all information about the client that is obtained from tests or
23 other means.

24 (r) Performing, holding himself or herself out as being able to
25 perform, or offering to perform any professional services beyond
26 the scope of the license authorized by this chapter or beyond his
27 or her field or fields of competence as established by his or her
28 education, training, or experience.

29 (s) Reproducing or describing in public, or in any publication
30 subject to general public distribution, any psychological test or
31 other assessment device the value of which depends in whole or
32 in part on the naivete of the subject in ways that might invalidate
33 the test or device. An educational psychologist shall limit access
34 to the test or device to persons with professional interests who can
35 be expected to safeguard its use.

36 (t) Aiding or abetting an unlicensed person to engage in conduct
37 requiring a license under this chapter.

38 (u) When employed by another person or agency, encouraging,
39 either orally or in writing, the employer's or agency's clientele to

1 utilize his or her private practice for further counseling without
2 the approval of the employing agency or administration.

3 (v) Failing to comply with the child abuse reporting
4 requirements of Section 11166 of the Penal Code.

5 (w) Failing to comply with the elder and adult dependent abuse
6 reporting requirements of Section 15630 of the Welfare and
7 Institutions Code.

8 (x) Willful violation of Chapter 1 (commencing with Section
9 123100) of Part 1 of Division 106 of the Health and Safety Code.

10 (y) (1) Engaging in an act described in Section 261, 286, 288a,
11 or 289 of the Penal Code with a minor or an act described in
12 Section 288 or 288.5 of the Penal Code regardless of whether the
13 act occurred prior to or after the time the registration or license
14 was issued by the board. An act described in this subdivision
15 occurring prior to the effective date of this subdivision shall
16 constitute unprofessional conduct and shall subject the licensee to
17 refusal, suspension, or revocation of a license under this section.

18 (2) The Legislature hereby finds and declares that protection of
19 the public, and in particular minors, from sexual misconduct by a
20 licensee is a compelling governmental interest, and that the ability
21 to suspend or revoke a license for sexual conduct with a minor
22 occurring prior to the effective date of this section is equally
23 important to protecting the public as is the ability to refuse a license
24 for sexual conduct with a minor occurring prior to the effective
25 date of this section.

26 SEC. 16. Section 7403 of the Business and Professions Code
27 is amended to read:

28 7403. (a) Notwithstanding any other provision of law, the
29 board may revoke, suspend, or deny at any time any license
30 required by this chapter on any of the grounds for disciplinary
31 action provided in this article. The proceedings under this article
32 shall be conducted in accordance with Chapter 5 (commencing
33 with Section 11500) of Part 1 of Division 3 of Title 2 of the
34 Government Code, and the board shall have all the powers granted
35 therein.

36 (b) The board may deny a license to an applicant on any of the
37 grounds specified in Section 480.

38 (c) In addition to the requirements provided in Sections 485 and
39 486, upon denying a license to an applicant, the board shall provide
40 a statement of reasons for the denial that does the following:

1 (1) Evaluates evidence of rehabilitation submitted by the
2 applicant, if any.

3 (2) Provides the board's criteria relating to rehabilitation,
4 formulated pursuant to Section 482, that takes into account the age
5 and severity of the offense, and the evidence relating to
6 participation in treatment or other rehabilitation programs.

7 (3) If the board's decision was based on the applicant's prior
8 criminal conviction, justifies the board's denial of a license and
9 conveys the reasons why the prior criminal conviction is
10 substantially related to the qualifications, functions, or duties of a
11 barber or cosmetologist.

12 (d) Commencing July 1, 2009, all of the following shall apply:

13 (1) If the denial of a license is due at least in part to the
14 applicant's state or federal criminal history record, the board shall,
15 in addition to the information provided pursuant to paragraph (3)
16 of subdivision (c), provide to the applicant a copy of his or her
17 criminal history record if the applicant makes a written request to
18 the board for a copy, specifying an address to which it is to be
19 sent.

20 (A) The state or federal criminal history record shall not be
21 modified or altered from its form or content as provided by the
22 Department of Justice.

23 (B) The criminal history record shall be provided in such a
24 manner as to protect the confidentiality and privacy of the
25 applicant's criminal history record and the criminal history record
26 shall not be made available by the board to any employer.

27 (C) The board shall retain a copy of the applicant's written
28 request and a copy of the response sent to the applicant, which
29 shall include the date and the address to which the response was
30 sent.

31 (2) The board shall make this information available upon request
32 by the Department of Justice or the Federal Bureau of Investigation.

33 (e) Notwithstanding Section 487, the board shall conduct a
34 hearing of a license denial within 90 days of receiving an
35 applicant's request for a hearing. For all other hearing requests,
36 the board shall determine when the hearing shall be conducted.

37 (f) In any case in which the administrative law judge
38 recommends that the board revoke, suspend, or deny a license, the
39 administrative law judge may, upon presentation of suitable proof,
40 order the licensee to pay the board the reasonable costs of the

1 investigation and adjudication of the case. For purposes of this
 2 section, “costs” include charges by the board for investigating the
 3 case, charges incurred by the office of the Attorney General for
 4 investigating and presenting the case, and charges incurred by the
 5 Office of Administrative Hearings for hearing the case and issuing
 6 a proposed decision.

7 (g) The costs to be assessed shall be fixed by the administrative
 8 law judge and shall not, in any event, be increased by the board.
 9 When the board does not adopt a proposed decision and remands
 10 the case to an administrative law judge, the administrative law
 11 judge shall not increase the amount of any costs assessed in the
 12 proposed decision.

13 (h) The board may enforce the order for payment in the superior
 14 court in the county where the administrative hearing was held.
 15 This right of enforcement shall be in addition to any other rights
 16 the board may have as to any licensee directed to pay costs.

17 (i) In any judicial action for the recovery of costs, proof of the
 18 board’s decision shall be conclusive proof of the validity of the
 19 order of payment and the terms for payment.

20 (j) Notwithstanding any other provision of law, all costs
 21 recovered under this section shall be deposited in the board’s
 22 contingent fund as a scheduled reimbursement in the fiscal year
 23 in which the costs are actually recovered.

24 SEC. 17. Section 7847 of the Business and Professions Code
 25 is amended to read:

26 7847. The board, upon application therefor, on its prescribed
 27 form, and upon the payment of the application and registration
 28 fees fixed by this chapter, which fees shall be retained by the board,
 29 may issue a certificate of registration as a geologist or as a
 30 geophysicist to a person holding an equivalent certificate of
 31 registration as a geologist or as a geophysicist, issued to him or
 32 her by any state or country when the applicant’s qualifications
 33 meet the other requirements of this chapter and the rules established
 34 by the board.

35 SEC. 18. Section 8027 of the Business and Professions Code
 36 is amended to read:

37 8027. (a) As used in this section, “school” means a court
 38 reporter training program or an institution that provides a course
 39 of instruction approved by the board and the Bureau for Private
 40 Postsecondary and Vocational Education, is a public school in this

1 state, or is accredited by the Western Association of Schools and
2 Colleges.

3 (b) A court reporting school shall be primarily organized to train
4 students for the practice of shorthand reporting, as defined in
5 Sections 8016 and 8017. Its educational program shall be on the
6 postsecondary or collegiate level. It shall be legally organized and
7 authorized to conduct its program under all applicable laws of the
8 state, and shall conform to and offer all components of the
9 minimum prescribed course of study established by the board. Its
10 records shall be kept and shall be maintained in a manner to render
11 them safe from theft, fire, or other loss. The records shall indicate
12 positive daily and clock-hour attendance of each student for all
13 classes, apprenticeship and graduation reports, high school
14 transcripts or the equivalent or self-certification of high school
15 graduation or the equivalent, transcripts of other education, and
16 student progress to date, including all progress and counseling
17 reports.

18 (c) Any school intending to offer a program in court reporting
19 shall notify the board within 30 days of the date on which it
20 provides notice to, or seeks approval from, the State Department
21 of Education, the Bureau for Private Postsecondary and Vocational
22 Education, the Office of the Chancellor of the California
23 Community Colleges, or the Western Association of Schools and
24 Colleges, whichever is applicable. The board shall review the
25 proposed curriculum and provide the school tentative approval, or
26 notice of denial, within 60 days of receipt of the notice. The school
27 shall apply for provisional recognition pursuant to subdivision (d)
28 within no more than one year from the date it begins offering court
29 reporting classes.

30 (d) The board may grant provisional recognition to a new court
31 reporting school upon satisfactory evidence that it has met all of
32 the provisions of subdivision (b) and this subdivision. Recognition
33 may be granted by the board to a provisionally recognized school
34 after it has been in continuous operation for a period of no less
35 than three consecutive years from the date provisional recognition
36 was granted, during which period the school shall provide
37 satisfactory evidence that at least one person has successfully
38 completed the entire course of study established by the board and
39 complied with the provisions of Section 8020, and has been issued
40 a certificate to practice shorthand reporting as defined in Sections

1 8016 and 8017. The board may, for good cause shown, extend the
2 three-year provisional recognition period for not more than one
3 year. Failure to meet the provisions and terms of this section shall
4 require the board to deny recognition. Once granted, recognition
5 may be withdrawn by the board for failure to comply with all
6 applicable laws and regulations.

7 (e) Application for recognition of a court reporting school shall
8 be made upon a form prescribed by the board and shall be
9 accompanied by all evidence, statements, or documents requested.
10 Each branch, extension center, or off-campus facility requires
11 separate application.

12 (f) All recognized and provisionally recognized court reporting
13 schools shall notify the board of any change in school name,
14 address, telephone number, responsible court reporting program
15 manager, owner of private schools, and the effective date thereof,
16 within 30 days of the change. All of these notifications shall be
17 made in writing.

18 (g) A school shall notify the board in writing immediately of
19 the discontinuance or pending discontinuance of its court reporting
20 program or any of the program's components. Within two years
21 of the date this notice is sent to the board, the school shall
22 discontinue its court reporting program in its entirety. The board
23 may, for good cause shown, grant not more than two one-year
24 extensions of this period to a school. If a student is to be enrolled
25 after this notice is sent to the board, a school shall disclose to the
26 student the fact of the discontinuance or pending discontinuance
27 of its court reporting program or any of its program components.

28 (h) The board shall maintain a roster of currently recognized
29 and provisionally recognized court reporting schools, including,
30 but not limited to, the name, address, telephone number, and the
31 name of the responsible court reporting program manager of each
32 school.

33 (i) The board shall maintain statistics that display the number
34 and passing percentage of all first-time examinees, including, but
35 not limited to, those qualified by each recognized or provisionally
36 recognized school and those first-time examinees qualified by
37 other methods as defined in Section 8020.

38 (j) Inspections and investigations shall be conducted by the
39 board as necessary to carry out this section, including, but not
40 limited to, unannounced site visits.

1 (k) All recognized and provisionally recognized schools shall
2 print in their school or course catalog the name, address, and
3 telephone number of the board. At a minimum, the information
4 shall be in 8-point bold type and include the following statement:

5 “IN ORDER FOR A PERSON TO QUALIFY FROM A
6 SCHOOL TO TAKE THE STATE LICENSING EXAMINATION,
7 THE PERSON SHALL COMPLETE A PROGRAM AT A
8 RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING
9 THE MINIMUM REQUIREMENTS THAT A COURT
10 REPORTING PROGRAM MUST MEET IN ORDER TO BE
11 RECOGNIZED, CONTACT: THE COURT REPORTERS
12 BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE
13 NUMBER).”

14 (l) Each court reporting school shall file with the board, not
15 later than June 30 of each year, a current school catalog that shows
16 all course offerings and staff, and for private schools, the owner,
17 except that where there have been no changes to the catalog within
18 the previous year, no catalog need be sent. In addition, each school
19 shall also file with the board a statement certifying whether the
20 school is in compliance with all statutes and the rules and
21 regulations of the board, signed by the responsible court reporting
22 program manager.

23 (m) A school offering court reporting shall not make any written
24 or verbal claims of employment opportunities or potential earnings
25 unless those claims are based on verified data and reflect current
26 employment conditions.

27 (n) If a school offers a course of instruction that exceeds the
28 board’s minimum requirements, the school shall disclose orally
29 and in writing the board’s minimum requirements and how the
30 course of instruction differs from those criteria. The school shall
31 make this disclosure before a prospective student executes an
32 agreement obligating that person to pay any money to the school
33 for the course of instruction.

34 (o) Private and public schools shall provide each prospective
35 student with all of the following and have the prospective student
36 sign a document that shall become part of that individual’s
37 permanent record, acknowledging receipt of each item:

38 (1) A student consumer information brochure published by the
39 board.

- 1 (2) A list of the school’s graduation requirements, including the
2 number of tests, the pass point of each test, the speed of each test,
3 and the type of test, such as jury charge or literary.
- 4 (3) A list of requirements to qualify for the state certified
5 shorthand reporter licensing examination, including the number
6 of tests, the pass point of each test, the speed of each test, and the
7 type of test, such as jury charge or literary, if different than those
8 requirements listed in paragraph (2).
- 9 (4) A copy of the school’s board-approved benchmarks for
10 satisfactory progress as identified in subdivision (w).
- 11 (5) A report showing the number of students from the school
12 who qualified for each of the certified shorthand reporter licensing
13 examinations within the preceding two years, the number of those
14 students that passed each examination, the time, as of the date of
15 qualification, that each student was enrolled in court reporting
16 school, and the placement rate for all students that passed each
17 examination.
- 18 (6) The school shall also provide to prospective students the
19 number of hours each currently enrolled student who has qualified
20 to take the next licensing test, exclusive of transfer students, has
21 attended court reporting classes.
- 22 (p) All enrolled students shall have the information in
23 subdivisions (n) and (o) on file no later than June 30, 2005.
- 24 (q) Public schools shall provide the information in subdivisions
25 (n) and (o) to each new student the first day he or she attends theory
26 or machine speed class, if it was not provided previously.
- 27 (r) Each enrolled student shall be provided written notification
28 of any change in qualification or graduation requirements that is
29 being implemented due to the requirements of any one of the
30 school’s oversight agencies. This notice shall be provided to each
31 affected student at least 30 days before the effective date of the
32 change and shall state the new requirement and the name, address,
33 and telephone number of the agency that is requiring it of the
34 school. Each student shall initial and date a document
35 acknowledging receipt of that information and that document, or
36 a copy thereof, shall be made part of the student’s permanent file.
- 37 (s) Schools shall make available a comprehensive final
38 examination in each academic subject to any student desiring to
39 challenge an academic class in order to obtain credit towards
40 certification for the state licensing examination. The points required

1 to pass a challenge examination shall not be higher than the
2 minimum points required of other students completing the
3 academic class.

4 (t) An individual serving as a teacher, instructor, or reader shall
5 meet the qualifications specified by regulation for his or her
6 position.

7 (u) Each school shall provide a substitute teacher or instructor
8 for any class for which the teacher or instructor is absent for two
9 consecutive days or more.

10 (v) The board has the authority to approve or disapprove
11 benchmarks for satisfactory progress which each school shall
12 develop for its court reporting program. Schools shall use only
13 board-approved benchmarks to comply with paragraph (4) of
14 subdivision (o) and subdivision (w).

15 (w) Each school shall counsel each student a minimum of one
16 time within each 12-month period to identify the level of attendance
17 and progress, and the prognosis for completing the requirements
18 to become eligible to sit for the state licensing examination. If the
19 student has not progressed in accordance with the board-approved
20 benchmarks for that school, the student shall be counseled a
21 minimum of one additional time within that same 12-month period.

22 (x) The school shall provide to the board, for each student
23 qualifying through the school as eligible to sit for the state licensing
24 examination, the number of hours the student attended court
25 reporting classes, both academic and machine speed classes,
26 including theory.

27 (y) The pass rate of first-time examination takers for each school
28 offering court reporting shall meet or exceed the average pass rate
29 of all first-time test takers for a majority of examinations given
30 for the preceding three years. Failure to do so shall require the
31 board to conduct a review of the program. In addition, the board
32 may place the school on probation and may withdraw recognition
33 if the school continues to place below the above-described standard
34 on the two examinations that follow the three-year period.

35 (z) A school shall not require more than one 10-minute
36 qualifying examination, as defined in the regulations of the board,
37 for a student to be eligible to sit for the state certification
38 examination.

- 1 (aa) A school shall provide the board the actual number of hours
2 of attendance for each applicant the school qualifies for the state
3 licensing examination.
- 4 (ab) The board shall do the following by regulation as necessary:
- 5 (1) Establish the format that shall be used by schools to report
6 tracking of all attendance hours and actual timeframes for
7 completed coursework.
- 8 (2) Require schools to provide a minimum of 10 hours of live
9 dictation class each school week for every full-time student.
- 10 (3) Require schools to provide students with the opportunity to
11 read back from their stenographic notes a minimum of one time
12 each day to his or her instructor.
- 13 (4) Require schools to provide students with the opportunity to
14 practice with a school-approved speed-building tape, or other
15 assigned material, a minimum of one hour per day after school
16 hours as a homework assignment and provide the notes from this
17 tape to their instructor the following day for review.
- 18 (5) Develop standardization of policies on the use and
19 administration of qualifier examinations by schools.
- 20 (6) Define qualifier examination as follows: the qualifier
21 examination shall consist of 4-voice testimony of 10-minute
22 duration at 200 words per minute, graded at 97.5 percent accuracy,
23 and in accordance with the guidelines followed by the board.
24 Schools shall be required to date and number each qualifier and
25 announce the date and number to the students at the time of
26 administering the qualifier. All qualifiers shall indicate the actual
27 dictation time of the test and the school shall catalog and maintain
28 the qualifier for a period of not less than three years for the purpose
29 of inspection by the board.
- 30 (7) Require schools to develop a program to provide students
31 with the opportunity to interact with professional court reporters
32 to provide skill support, mentoring, or counseling which they can
33 document at least quarterly.
- 34 (8) Define qualifications and educational requirements required
35 of instructors and readers that read test material and qualifiers.
- 36 (ac) The board shall adopt regulations to implement the
37 requirements of this section.
- 38 (ad) The board may recover costs for any additional expenses
39 incurred under Chapter 616 of the Statutes of 2001 pursuant to its
40 fee authority in Section 8031.

1 SEC. 19. Section 17533.6 of the Business and Professions
2 Code is amended to read:

3 17533.6. (a) It is unlawful for any person, firm, corporation,
4 or association that is a nongovernmental entity to solicit
5 information, or to solicit the purchase of or payment for a product
6 or service, or to solicit the contribution of funds or membership
7 fees, by means of a mailing, electronic message, or Internet Web
8 site that contains a seal, insignia, trade or brand name, or any other
9 term or symbol that reasonably could be interpreted or construed
10 as implying any state or local government connection, approval,
11 or endorsement, unless the requirements of paragraph (1) or (2)
12 have been met, as follows:

13 (1) The nongovernmental entity has an expressed connection
14 with, or the approval or endorsement of, a state or local government
15 entity, if permitted by other provisions of law.

16 (2) The solicitation meets both of the following requirements:

17 (A) The solicitation bears on its face, in conspicuous and legible
18 type in contrast by typography, layout, or color with other type on
19 its face, the following notice:

20 “THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED
21 OR ENDORSED BY ANY GOVERNMENTAL AGENCY, AND
22 THIS OFFER IS NOT BEING MADE BY AN AGENCY OF
23 THE GOVERNMENT.”

24 (B) In the case of a mailed solicitation, the envelope or outside
25 cover or wrapper in which the matter is mailed bears on its face
26 in capital letters and in conspicuous and legible type, the following
27 notice:

28 “THIS IS NOT A GOVERNMENT DOCUMENT.”

29 (b) Except as provided in subdivision (c), any business that
30 solicits the purchase of, or payment for, a service by means of an
31 unsolicited mailing that offers to assist the recipient in dealing
32 with a state or local governmental agency shall do both of the
33 following:

34 (1) State on the envelope and in the mailing that the business
35 is not a governmental agency and is not associated with the
36 governmental agency referenced.

37 (2) Include in the mailing the contact information for the
38 governmental agency referenced.

39 (c) Subdivision (b) shall not apply if either of the following
40 requirements has been met:

1 (1) The business has an expressed connection with, or the
2 approval or endorsement of, a state or local governmental entity,
3 if permitted by other provisions of law.

4 (2) The business has an “established business relationship,” as
5 defined in Section 1798.83 of the Civil Code, with the recipient.

6 SEC. 20. Section 17537.12 of the Business and Professions
7 Code is amended to read:

8 17537.12. (a) This section shall be known and may be cited
9 as the Truth in Music Advertising Act.

10 (b) As used in this section, the following terms have the
11 following meanings unless the context clearly indicates otherwise:

12 (1) “Performing group” means a vocal or instrumental group
13 seeking to use the name of another group that has previously
14 released a commercial sound recording under that name.

15 (2) “Person” means the performing group or its promoter,
16 manager, or agent. “Person” does not include the performance
17 venue or its owners, managers, or operators, unless the performance
18 venue owns or produces the performing group, or knew or should
19 have known that the performing group does not have a legal right
20 to perform.

21 (3) “Recording group” means a vocal or instrumental group, at
22 least one of whose members has previously released a commercial
23 sound recording under that group’s name and in which the member
24 or members have a legal right by virtue of use or operation under
25 the group name without having abandoned the name or affiliation
26 with the group.

27 (4) “Sound recording” means a work that results from the
28 fixation on a material object of a series of musical, spoken, or other
29 sounds regardless of the nature of the material object, such as a
30 disk, tape, or other phonorecord, in which the sounds are embodied.

31 (c) No person shall advertise or conduct a live musical
32 performance or production through the use of a false, deceptive,
33 or misleading affiliation, connection, or association between a
34 performing group and a recording group unless any of the following
35 apply:

36 (1) The performing group is the authorized registrant and owner
37 of a federal service mark for the group registered in the United
38 States Patent and Trademark Office.

39 (2) At least one member of the performing group was previously
40 a member of the recording group and has a legal right by virtue of

1 use or operation under the group name without having abandoned
2 the name or affiliation of the group.

3 (3) The live musical performance or production is identified in
4 all advertising and promotion as a salute or tribute, and the name
5 of the vocal or instrumental group performing is not so closely
6 related or similar to that used by the recording group that it would
7 tend to confuse or mislead the public.

8 (4) The advertising does not relate to a live musical performance
9 or production taking place in this state.

10 (5) The performance or production is expressly authorized by
11 the recording group.

12 (d) (1) Any person who violates any of the provisions of this
13 section shall be subject to a civil penalty not to exceed two
14 thousand five hundred dollars (\$2,500) per violation, as provided
15 in subdivision (a) of Section 17206. An action for a civil penalty
16 shall be brought by a public prosecutor as provided in subdivision
17 (a) of Section 17206 and shall be enforceable as a civil judgment.

18 (2) Any person who violates any of the provisions of this section
19 shall be subject to the equitable remedies described in Chapter 5
20 (commencing with Section 17200) of Part 2.

21 (3) Nothing in this section shall preclude prosecution of a
22 violation of this section under any other provision of law.

23 SEC. 21. Section 21606.5 of the Business and Professions
24 Code is amended to read:

25 21606.5. (a) Every junk dealer or recycler shall, during normal
26 business hours, allow periodic inspection of any premises
27 maintained and any junk thereon for the purpose of determining
28 compliance with the recordkeeping requirements of this article,
29 and shall during those hours produce his or her records of sales
30 and purchases, except as provided in subparagraph (A) of paragraph
31 (3) of subdivision (a) of Section 21608.5, and all property
32 purchased incident to those transactions which is in the possession
33 of the junk dealer or recycler for inspection by any of the following
34 persons:

35 (1) An officer holding a warrant authorizing him or her to search
36 for personal property.

37 (2) A person appointed by the sheriff of a county or appointed
38 by the head of the police department of a city.

39 (3) An officer holding a court order directing him or her to
40 examine the records or property.

1 (b) The amendments to this section made by Chapter 731 of the
2 Statutes of 2008 shall become operative on December 1, 2008.

3 SEC. 22. Section 23356.2 of the Business and Professions
4 Code is amended to read:

5 23356.2. (a) No license or permit shall be required for the
6 manufacture of beer for personal or family use, and not for sale,
7 by a person over the age of 21 years. The aggregate amount of
8 beer with respect to any household shall not exceed (1) 200 gallons
9 per calendar year if there are two or more adults in the household,
10 or (2) 100 gallons per calendar year if there is only one adult in
11 the household.

12 (b) No license or permit shall be required for the manufacture
13 of wine for personal or family use, and not for sale, by a person
14 over the age of 21 years. The aggregate amount of wine with
15 respect to any household shall not exceed (1) 200 gallons per
16 calendar year if there are two or more adults in the household or
17 (2) 100 gallons per calendar year if there is only one adult in the
18 household.

19 (c) Any beer manufactured pursuant to this section may be
20 removed from the premises where manufactured for use in
21 competition at organized affairs, exhibitions, or competitions,
22 including homemakers' contests, tastings, or judgings.

23 (d) Any wine made pursuant to this section may be removed
24 from the premises where made for personal or family use, including
25 use at organized affairs, exhibitions, or competitions, such as
26 homemakers' contests, tastings, or judging. Wine used under this
27 section shall not be sold or offered for sale.

28 (e) Except as provided herein, nothing in this section authorizes
29 any activity in violation of Section 23300, 23355, or 23399.1.

30 SEC. 23. Section 24045.4 of the Business and Professions
31 Code is amended to read:

32 24045.4. (a) The department may issue a special temporary
33 off-sale general license to any nonprofit corporation which is
34 exempt from payment of income taxes under the provisions of
35 Section 23701d of the Revenue and Taxation Code and Section
36 501(c)(3) of the Internal Revenue Code of the United States. An
37 applicant for this license shall accompany the application with a
38 fee of one hundred dollars (\$100).

39 (b) This license shall only entitle the licensee to sell at auction
40 alcoholic beverages donated to it. Notwithstanding any other

1 provision of this division, a licensee may donate alcoholic
2 beverages to a corporation licensed under this section, provided
3 that donations are not made in connection with a sale of an
4 alcoholic beverage.

5 (c) This license shall be for a period not exceeding 30 days.
6 Only three licenses authorized by this section shall be issued to
7 any corporation in a calendar year.

8 SEC. 24. Section 24045.6 of the Business and Professions
9 Code is amended to read:

10 24045.6. (a) The department may issue a special temporary
11 on-sale or off-sale wine license to any nonprofit corporation that
12 is exempt from payment of income taxes under Section 23701d
13 or 23701e of the Revenue and Taxation Code and Section 501(c)(3)
14 or 501(c)(6) of the Internal Revenue Code. An applicant for this
15 license shall accompany the application with a fee of one hundred
16 dollars (\$100).

17 (b) This special license shall only entitle the licensee to sell
18 wine bought by, or donated to, the licensee to a consumer and to
19 any person holding a license authorizing the sale of wine.
20 Notwithstanding any other provision of this division, a licensee
21 may donate or sell wine to a nonprofit corporation that obtains a
22 special temporary on-sale or off-sale license under this section,
23 provided that the donation is not made in connection with a sale
24 of an alcoholic beverage.

25 (c) This special license shall be for a period not exceeding 15
26 days. In the event the license under this section is issued for a
27 period exceeding two days, it shall be used solely for retail sales
28 in conjunction with an identifiable fundraising event sponsored or
29 conducted by the licensee and all bottles of wine sold under this
30 license shall bear a label prominently identifying the event. Only
31 three special licenses authorized by this section shall be issued to
32 any corporation in a calendar year.

33 SEC. 25. Section 1675 of the Civil Code, as amended by
34 Section 1 of Chapter 665 of the Statutes of 2008, is amended to
35 read:

36 1675. (a) As used in this section, “residential property” means
37 real property primarily consisting of a dwelling that meets both of
38 the following requirements:

39 (1) The dwelling contains not more than four residential units.

1 (2) At the time the contract to purchase and sell the property is
2 made, the buyer intends to occupy the dwelling or one of its units
3 as his or her residence.

4 (b) A provision in a contract to purchase and sell residential
5 property that provides that all or any part of a payment made by
6 the buyer shall constitute liquidated damages to the seller upon
7 the buyer's failure to complete the purchase of the property is valid
8 to the extent that payment in the form of cash or check, including
9 a postdated check, is actually made if the provision satisfies the
10 requirements of Sections 1677 and 1678 and either subdivision
11 (c) or (d) of this section.

12 (c) If the amount actually paid pursuant to the liquidated
13 damages provision does not exceed 3 percent of the purchase price,
14 the provision is valid to the extent that payment is actually made
15 unless the buyer establishes that the amount is unreasonable as
16 liquidated damages.

17 (d) If the amount actually paid pursuant to the liquidated
18 damages provision exceeds 3 percent of the purchase price, the
19 provision is invalid unless the party seeking to uphold the provision
20 establishes that the amount actually paid is reasonable as liquidated
21 damages.

22 (e) For the purposes of subdivisions (c) and (d), the
23 reasonableness of an amount actually paid as liquidated damages
24 shall be determined by taking into account both of the following:

25 (1) The circumstances existing at the time the contract was
26 made.

27 (2) The price and other terms and circumstances of any
28 subsequent sale or contract to sell and purchase the same property
29 if the sale or contract is made within six months of the buyer's
30 default.

31 (f) (1) Notwithstanding either subdivision (c) or (d), for the
32 initial sale of newly constructed attached condominium units, as
33 defined pursuant to Section 783, that involves the sale of an
34 attached residential condominium unit located within a structure
35 of 10 or more residential condominium units and the amount
36 actually paid to the seller pursuant to the liquidated damages
37 provision exceeds 3 percent of the purchase price of the residential
38 unit in the transaction, both of the following shall occur in the
39 event of a buyer's default:

1 (A) The seller shall perform an accounting of its costs and
2 revenues related to and fairly allocable to the construction and sale
3 of the residential unit within 60 calendar days after the final close
4 of escrow of the sale of the unit within the structure.

5 (B) The accounting shall include any and all costs and revenues
6 related to the construction and sale of the residential property and
7 any delay caused by the buyer's default. The seller shall make
8 reasonable efforts to mitigate any damages arising from the default.
9 The seller shall refund to the buyer any amounts previously retained
10 as liquidated damages in excess of the greater of either 3 percent
11 of the originally agreed-upon purchase price of the residential
12 property or the amount of the seller's losses resulting from the
13 buyer's default, as calculated by the accounting.

14 (2) The refund shall be sent to the buyer's last known address
15 within 90 days after the final close of escrow of the sale or lease
16 of all the residential condominium units within the structure.

17 (3) If the amount retained by the seller after the accounting does
18 not exceed 3 percent of the purchase price, the amount is valid
19 unless the buyer establishes that the amount is unreasonable as
20 liquidated damages pursuant to subdivision (e).

21 (4) Subdivision (d) shall not apply to any dispute regarding the
22 reasonableness of any amount retained as liquidated damages
23 pursuant to this subdivision.

24 (5) Notwithstanding the time periods regarding the performance
25 of the accounting set forth in paragraph (1), if a new qualified
26 buyer has entered into a contract to purchase the residential
27 property in question, the seller shall perform the accounting within
28 60 calendar days after a new qualified buyer has entered into a
29 contract to purchase.

30 (6) As used in this subdivision, "structure" means either of the
31 following:

32 (A) Improvements constructed on a common foundation.

33 (B) Improvements constructed by the same owner that must be
34 constructed concurrently due to the design characteristics of the
35 improvements or physical characteristics of the property on which
36 the improvements are located.

37 (7) As used in this subdivision, "new qualified buyer" means a
38 buyer who either:

39 (A) Has been issued a loan commitment, which satisfies the
40 purchase agreement loan contingency requirement, by an

1 institutional lender to obtain a loan for an amount equal to the
2 purchase price less any downpayment possessed by the buyer.

3 (B) Has contracted to pay a purchase price that is greater than
4 or equal to the purchase price to be paid by the original buyer.

5 (g) (1) (A) Notwithstanding subdivision (c), (d), or (f), for the
6 initial sale of newly constructed attached condominium units, as
7 defined pursuant to Section 783, that involves the sale of an
8 attached residential condominium unit described in subparagraph
9 (B), and the amount actually paid to the seller pursuant to
10 liquidated damages provision exceeds 6 percent of the purchase
11 price of the residential unit in the transaction, both of the following
12 shall occur in the event of a buyer's default:

13 (i) The seller shall perform an accounting of its costs and
14 revenues related to and fairly allocable to the construction and sale
15 of the residential unit within 60 calendar days after the final close
16 of escrow of the sale of the unit within the structure.

17 (ii) The accounting shall include any and all costs and revenues
18 related to the construction and sale of the residential property and
19 any delay caused by the buyer's default. The seller shall make
20 reasonable efforts to mitigate any damages arising from the default.
21 The seller shall refund to the buyer any amounts previously retained
22 as liquidated damages in excess of the greater of either 6 percent
23 of the originally agreed-upon purchase price of the residential
24 property or the amount of the seller's losses resulting from the
25 buyer's default, as calculated by the accounting.

26 (B) This subdivision applies to an attached residential
27 condominium unit for which both of the following are true:

28 (i) The unit is located within a structure of 20 or more residential
29 condominium units, standing over eight stories high, that is
30 high-density infill development, as defined in paragraph (10) of
31 subdivision (a) of Section 21159.24 of the Public Resources Code,
32 and that is located in a city, county, or city and county with a
33 population density of 1,900 residents per square mile or greater,
34 as evidenced by the 2000 United States census.

35 (ii) The purchase price of the unit was more than one million
36 dollars (\$1,000,000).

37 (2) The refund shall be sent to the buyer's last known address
38 within 90 days after the final close of escrow of the sale or lease
39 of all the residential condominium units within the structure.

1 (3) If the amount retained by the seller after the accounting does
2 not exceed 6 percent of the purchase price, the amount is valid
3 unless the buyer establishes that the amount is unreasonable as
4 liquidated damages pursuant to subdivision (e).

5 (4) Subdivision (d) shall not apply to any dispute regarding the
6 reasonableness of any amount retained as liquidated damages
7 pursuant to this subdivision.

8 (5) Notwithstanding the time periods regarding the performance
9 of the accounting set forth in paragraph (1), if a new qualified
10 buyer has entered into a contract to purchase the residential
11 property in question, the seller shall perform the accounting within
12 60 calendar days after a new qualified buyer has entered into a
13 contract to purchase.

14 (6) As used in this subdivision, “structure” means either of the
15 following:

16 (A) Improvements constructed on a common foundation.

17 (B) Improvements constructed by the same owner that must be
18 constructed concurrently due to the design characteristics of the
19 improvements or physical characteristics of the property on which
20 the improvements are located.

21 (7) As used in this subdivision, “new qualified buyer” means a
22 buyer who either:

23 (A) Has been issued a loan commitment, which satisfies the
24 purchase agreement loan contingency requirement, by an
25 institutional lender to obtain a loan for an amount equal to the
26 purchase price less any downpayment possessed by the buyer.

27 (B) Has contracted to pay a purchase price that is greater than
28 or equal to the purchase price to be paid by the original buyer.

29 (8) Commencing on July 1, 2010, and annually on each July 1
30 thereafter, the dollar amount of the minimum purchase price
31 specified in paragraph (1) shall be adjusted. The Real Estate
32 Commissioner shall determine the amount of the adjustment based
33 on the change in the median price of a single family home in
34 California, as determined by the most recent data available from
35 the Federal Housing Finance Board. Upon determining the amount
36 of the adjustment, the Real Estate Commissioner shall publish the
37 current dollar amount of the minimum purchase price on the
38 Internet Web site of the Department of Real Estate.

1 (9) Prior to the execution of a contract for sale of a residential
2 condominium unit subject to this subdivision, the seller shall
3 provide to the buyer the following notice, in at least 12-point type:

4 “Important Notice Regarding Your Deposit: Under California
5 law, in a contract for the initial sale of a newly constructed attached
6 condominium unit in a building over eight stories tall, containing
7 20 or more residential units, and located in a high-density infill
8 development in a city, county, or city and county with 1,900
9 residents or more per square mile, where the price is more than
10 one million dollars (\$1,000,000), as adjusted by the Department
11 of Real Estate, liquidated damages of 6 percent of the purchase
12 price are presumed valid if the buyer defaults, unless the buyer
13 establishes that the amount is unreasonable.”

14 If the seller fails to provide this notice to the buyer prior to the
15 execution of the contract, the amount of any liquidated damages
16 shall be subject to subdivisions (c) and (d).

17 (h) This section shall become inoperative on July 1, 2014, and,
18 as of January 1, 2015, is repealed, unless a later enacted statute,
19 that becomes operative on or before January 1, 2015, deletes or
20 extends the dates on which it becomes inoperative and is repealed.

21 SEC. 26. Section 1770 of the Civil Code is amended to read:

22 1770. (a) The following unfair methods of competition and
23 unfair or deceptive acts or practices undertaken by any person in
24 a transaction intended to result or which results in the sale or lease
25 of goods or services to any consumer are unlawful:

26 (1) Passing off goods or services as those of another.

27 (2) Misrepresenting the source, sponsorship, approval, or
28 certification of goods or services.

29 (3) Misrepresenting the affiliation, connection, or association
30 with, or certification by, another.

31 (4) Using deceptive representations or designations of
32 geographic origin in connection with goods or services.

33 (5) Representing that goods or services have sponsorship,
34 approval, characteristics, ingredients, uses, benefits, or quantities
35 which they do not have or that a person has a sponsorship,
36 approval, status, affiliation, or connection which he or she does
37 not have.

38 (6) Representing that goods are original or new if they have
39 deteriorated unreasonably or are altered, reconditioned, reclaimed,
40 used, or secondhand.

- 1 (7) Representing that goods or services are of a particular
2 standard, quality, or grade, or that goods are of a particular style
3 or model, if they are of another.
- 4 (8) Disparaging the goods, services, or business of another by
5 false or misleading representation of fact.
- 6 (9) Advertising goods or services with intent not to sell them
7 as advertised.
- 8 (10) Advertising goods or services with intent not to supply
9 reasonably expectable demand, unless the advertisement discloses
10 a limitation of quantity.
- 11 (11) Advertising furniture without clearly indicating that it is
12 unassembled if that is the case.
- 13 (12) Advertising the price of unassembled furniture without
14 clearly indicating the assembled price of that furniture if the same
15 furniture is available assembled from the seller.
- 16 (13) Making false or misleading statements of fact concerning
17 reasons for, existence of, or amounts of price reductions.
- 18 (14) Representing that a transaction confers or involves rights,
19 remedies, or obligations which it does not have or involve, or
20 which are prohibited by law.
- 21 (15) Representing that a part, replacement, or repair service is
22 needed when it is not.
- 23 (16) Representing that the subject of a transaction has been
24 supplied in accordance with a previous representation when it has
25 not.
- 26 (17) Representing that the consumer will receive a rebate,
27 discount, or other economic benefit, if the earning of the benefit
28 is contingent on an event to occur subsequent to the consummation
29 of the transaction.
- 30 (18) Misrepresenting the authority of a salesperson,
31 representative, or agent to negotiate the final terms of a transaction
32 with a consumer.
- 33 (19) Inserting an unconscionable provision in the contract.
- 34 (20) Advertising that a product is being offered at a specific
35 price plus a specific percentage of that price unless (A) the total
36 price is set forth in the advertisement, which may include, but is
37 not limited to, shelf tags, displays, and media advertising, in a size
38 larger than any other price in that advertisement, and (B) the
39 specific price plus a specific percentage of that price represents a
40 markup from the seller's costs or from the wholesale price of the

1 product. This subdivision shall not apply to in-store advertising
2 by businesses which are open only to members or cooperative
3 organizations organized pursuant to Division 3 (commencing with
4 Section 12000) of Title 1 of the Corporations Code where more
5 than 50 percent of purchases are made at the specific price set forth
6 in the advertisement.

7 (21) Selling or leasing goods in violation of Chapter 4
8 (commencing with Section 1797.8) of Title 1.7.

9 (22) (A) Disseminating an unsolicited prerecorded message by
10 telephone without an unrecorded, natural voice first informing the
11 person answering the telephone of the name of the caller or the
12 organization being represented, and either the address or the
13 telephone number of the caller, and without obtaining the consent
14 of that person to listen to the prerecorded message.

15 (B) This subdivision does not apply to a message disseminated
16 to a business associate, customer, or other person having an
17 established relationship with the person or organization making
18 the call, to a call for the purpose of collecting an existing
19 obligation, or to any call generated at the request of the recipient.

20 (23) The home solicitation, as defined in subdivision (h) of
21 Section 1761, of a consumer who is a senior citizen where a loan
22 is made encumbering the primary residence of that consumer for
23 the purposes of paying for home improvements and where the
24 transaction is part of a pattern or practice in violation of either
25 subsection (h) or (i) of Section 1639 of Title 15 of the United States
26 Code or subsection (e) of Section 226.32 of Title 12 of the Code
27 of Federal Regulations.

28 A third party shall not be liable under this subdivision unless
29 (A) there was an agency relationship between the party who
30 engaged in home solicitation and the third party or (B) the third
31 party had actual knowledge of, or participated in, the unfair or
32 deceptive transaction. A third party who is a holder in due course
33 under a home solicitation transaction shall not be liable under this
34 subdivision.

35 (24) (A) Charging or receiving an unreasonable fee to prepare,
36 aid, or advise any prospective applicant, applicant, or recipient in
37 the procurement, maintenance, or securing of public social services.

38 (B) For purposes of this paragraph, the following definitions
39 shall apply:

1 (i) “Public social services” means those activities and functions
2 of state and local government administered or supervised by the
3 State Department of Health Care Services, the State Department
4 of Public Health, or the State Department of Social Services, and
5 involved in providing aid or services, or both, including health
6 care services and medical assistance, to those persons who, because
7 of their economic circumstances or social condition, are in need
8 of that aid or those services and may benefit from them.

9 (ii) “Unreasonable fee” means a fee that is exorbitant and
10 disproportionate to the services performed. Factors to be
11 considered, when appropriate, in determining the reasonableness
12 of a fee, are based on the circumstances existing at the time of the
13 service and shall include, but not be limited to, all of the following:

- 14 (I) The time and effort required.
- 15 (II) The novelty and difficulty of the services.
- 16 (III) The skill required to perform the services.
- 17 (IV) The nature and length of the professional relationship.
- 18 (V) The experience, reputation, and ability of the person
19 providing the services.

20 (C) This paragraph shall not apply to attorneys licensed to
21 practice law in California, who are subject to the California Rules
22 of Professional Conduct and to the mandatory fee arbitration
23 provisions of Article 13 (commencing with Section 6200) of
24 Chapter 4 of Division 3 of the Business and Professions Code,
25 when the fees charged or received are for providing representation
26 in administrative agency appeal proceedings or court proceedings
27 for purposes of procuring, maintaining, or securing public social
28 services on behalf of a person or group of persons.

29 (b) (1) It is an unfair or deceptive act or practice for a mortgage
30 broker or lender, directly or indirectly, to use a home improvement
31 contractor to negotiate the terms of any loan that is secured,
32 whether in whole or in part, by the residence of the borrower and
33 which is used to finance a home improvement contract or any
34 portion thereof. For purposes of this subdivision, “mortgage broker
35 or lender” includes a finance lender licensed pursuant to the
36 California Finance Lenders Law (Division 9 (commencing with
37 Section 22000) of the Financial Code), a residential mortgage
38 lender licensed pursuant to the California Residential Mortgage
39 Lending Act (Division 20 (commencing with Section 50000) of
40 the Financial Code), or a real estate broker licensed under the Real

1 Estate Law (Division 4 (commencing with Section 10000) of the
2 Business and Professions Code).

3 (2) This section shall not be construed to either authorize or
4 prohibit a home improvement contractor from referring a consumer
5 to a mortgage broker or lender by this subdivision. However, a
6 home improvement contractor may refer a consumer to a mortgage
7 lender or broker if that referral does not violate Section 7157 of
8 the Business and Professions Code or any other provision of law.
9 A mortgage lender or broker may purchase an executed home
10 improvement contract if that purchase does not violate Section
11 7157 of the Business and Professions Code or any other provision
12 of law. Nothing in this paragraph shall have any effect on the
13 application of Chapter 1 (commencing with Section 1801) of Title
14 2 to a home improvement transaction or the financing thereof.

15 SEC. 27. Section 1780 of the Civil Code is amended to read:

16 1780. (a) Any consumer who suffers any damage as a result
17 of the use or employment by any person of a method, act, or
18 practice declared to be unlawful by Section 1770 may bring an
19 action against that person to recover or obtain any of the following:

20 (1) Actual damages, but in no case shall the total award of
21 damages in a class action be less than one thousand dollars
22 (\$1,000).

23 (2) An order enjoining the methods, acts, or practices.

24 (3) Restitution of property.

25 (4) Punitive damages.

26 (5) Any other relief that the court deems proper.

27 (b) (1) Any consumer who is a senior citizen or a disabled
28 person, as defined in subdivisions (f) and (g) of Section 1761, as
29 part of an action under subdivision (a), may seek and be awarded,
30 in addition to the remedies specified therein, up to five thousand
31 dollars (\$5,000) where the trier of fact does all of the following:

32 (A) Finds that the consumer has suffered substantial physical,
33 emotional, or economic damage resulting from the defendant's
34 conduct.

35 (B) Makes an affirmative finding in regard to one or more of
36 the factors set forth in subdivision (b) of Section 3345.

37 (C) Finds that an additional award is appropriate.

38 (2) Judgment in a class action by senior citizens or disabled
39 persons under Section 1781 may award each class member that
40 additional award if the trier of fact has made the foregoing findings.

1 (c) Whenever it is proven by a preponderance of the evidence
2 that a defendant has engaged in conduct in violation of paragraph
3 (24) of subdivision (a) of Section 1770, in addition to all other
4 remedies otherwise provided in this section, the court shall award
5 treble actual damages to the plaintiff. This subdivision shall not
6 apply to attorneys licensed to practice law in California, who are
7 subject to the California Rules of Professional Conduct and to the
8 mandatory fee arbitration provisions of Article 13 (commencing
9 with Section 6200) of Chapter 4 of Division 3 of the Business and
10 Professions Code, when the fees charged or received are for
11 providing representation in administrative agency appeal
12 proceedings or court proceedings for purposes of procuring,
13 maintaining, or securing public social services on behalf of a person
14 or group of persons.

15 (d) An action under subdivision (a) or (b) may be commenced
16 in the county in which the person against whom it is brought
17 resides, has his or her principal place of business, or is doing
18 business, or in the county where the transaction or any substantial
19 portion thereof occurred.

20 In any action subject to this section, concurrently with the filing
21 of the complaint, the plaintiff shall file an affidavit stating facts
22 showing that the action has been commenced in a county described
23 in this section as a proper place for the trial of the action. If a
24 plaintiff fails to file the affidavit required by this section, the court
25 shall, upon its own motion or upon motion of any party, dismiss
26 the action without prejudice.

27 (e) The court shall award court costs and attorney's fees to a
28 prevailing plaintiff in litigation filed pursuant to this section.
29 Reasonable attorney's fees may be awarded to a prevailing
30 defendant upon a finding by the court that the plaintiff's
31 prosecution of the action was not in good faith.

32 SEC. 28. Section 1936 of the Civil Code is amended to read:
33 1936. (a) For the purpose of this section, the following
34 definitions shall apply:

35 (1) "Rental company" means a person or entity in the business
36 of renting passenger vehicles to the public.

37 (2) "Renter" means any person in a manner obligated under a
38 contract for the lease or hire of a passenger vehicle from a rental
39 company for a period of less than 30 days.

1 (3) “Authorized driver” means (A) the renter, (B) the renter’s
2 spouse if that person is a licensed driver and satisfies the rental
3 company’s minimum age requirement, (C) the renter’s employer
4 or coworker if he or she is engaged in business activity with the
5 renter, is a licensed driver, and satisfies the rental company’s
6 minimum age requirement, and (D) a person expressly listed by
7 the rental company on the renter’s contract as an authorized driver.

8 (4) (A) “Customer facility charge” means a fee required by an
9 airport to be collected by a rental company from a renter for either
10 of the following purposes:

11 (i) To finance, design, and construct consolidated airport car
12 rental facilities.

13 (ii) To finance, design, construct, and provide common-use
14 transportation systems that move passengers between airport
15 terminals and those consolidated car rental facilities.

16 (B) The aggregate amount to be collected shall not exceed the
17 reasonable costs, as determined by an independent audit paid for
18 by the airport, to finance, design, and construct those facilities.
19 Copies of the audit shall be provided to the Assembly and Senate
20 Committees on Judiciary, the Assembly Committee on
21 Transportation, and the Senate Committee on Transportation and
22 Housing. In the case of a transportation system, the audit also shall
23 consider the reasonable costs of providing the transit system or
24 busing network. At the Burbank Airport, and at all other airports,
25 the fees designated as a customer facility charge shall not be used
26 to pay for terminal expansion, gate expansion, runway expansion,
27 changes in hours of operation, or changes in the number of flights
28 arriving or departing from the airport.

29 (C) Except as provided in subparagraph (D), the authorization
30 given pursuant to this section for an airport to impose a customer
31 facility charge shall become inoperative when the bonds used for
32 financing are paid.

33 (D) If a bond or other form of indebtedness is not used for
34 financing, or the bond or other form of indebtedness used for
35 financing has been paid, the Oakland International Airport may
36 require the collection of a customer facility charge for a period of
37 up to 10 years from the imposition of the charge for the purposes
38 allowed by, and subject to the conditions imposed by, this section.

39 (5) “Damage waiver” means a rental company’s agreement not
40 to hold a renter liable for all or any portion of any damage or loss

1 related to the rented vehicle, any loss of use of the rented vehicle,
2 or any storage, impound, towing, or administrative charges.

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

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

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

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

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

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

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

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

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

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

1 (E) An employee designated to receive the form specified in
2 subparagraph (C) of paragraph (1) of subdivision (t) is present at
3 the lot where the renter takes possession of the car, to receive any
4 change in the rental agreement from the renter.

5 (10) “Passenger vehicle” means a passenger vehicle as defined
6 in Section 465 of the Vehicle Code.

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

10 (1) Physical or mechanical damage to the rented vehicle up to
11 its fair market value, as determined in the customary market for
12 the sale of that vehicle, resulting from collision regardless of the
13 cause of the damage.

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

33 (3) Physical damage to the rented vehicle up to its fair market
34 value, as determined in the customary market for the sale of that
35 vehicle, resulting from vandalism occurring after, or in connection
36 with, the theft of the rented vehicle. However, the renter shall have
37 no liability for any damage due to vandalism if the renter would
38 have no liability for theft pursuant to paragraph (2).

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

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

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

9 (c) The total amount of the renter's liability to the rental
10 company resulting from damage to the rented vehicle shall not
11 exceed the sum of the following:

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

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

26 (3) (A) The estimated cost of labor to repair damaged vehicle
27 parts, which shall not exceed the lesser of the following:

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

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

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

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

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

3 (6) The administrative charge described in paragraph (6) of
4 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
5 estimated cost for parts and labor is more than one hundred dollars
6 (\$100) up to and including five hundred dollars (\$500), (B) one
7 hundred dollars (\$100) if the total estimated cost for parts and
8 labor exceeds five hundred dollars (\$500) up to and including one
9 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
10 dollars (\$150) if the total estimated cost for parts and labor exceeds
11 one thousand five hundred dollars (\$1,500). An administrative
12 charge shall not be imposed if the total estimated cost of parts and
13 labor is one hundred dollars (\$100) or less.

14 (d) (1) The total amount of an authorized driver’s liability to
15 the rental company, if any, for damage occurring during the
16 authorized driver’s operation of the rented vehicle shall not exceed
17 the amount of the renter’s liability under subdivision (c).

18 (2) A rental company shall not recover from the renter or other
19 authorized driver an amount exceeding the renter’s liability under
20 subdivision (c).

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

34 (4) If insurance coverage exists under the renter’s applicable
35 personal or business insurance policy and the coverage is confirmed
36 during regular business hours, the renter may require that the rental
37 company submit any claims to the renter’s applicable personal or
38 business insurance carrier. The rental company shall not make any
39 written or oral representations that it will not present claims or
40 negotiate with the renter’s insurance carrier. For purposes of this

1 paragraph, confirmation of coverage includes telephone
2 confirmation from insurance company representatives during
3 regular business hours. Upon request of the renter and after
4 confirmation of coverage, the amount of claim shall be resolved
5 between the insurance carrier and the rental company. The renter
6 shall remain responsible for payment to the rental car company
7 for any loss sustained that the renter's applicable personal or
8 business insurance policy does not cover.

9 (5) A rental company shall not recover from the renter or other
10 authorized driver for an item described in subdivision (b) to the
11 extent the rental company obtains recovery from another person.

12 (6) This section applies only to the maximum liability of a renter
13 or other authorized driver to the rental company resulting from
14 damage to the rented vehicle and not to the liability of another
15 person.

16 (e) (1) Except as provided in subdivision (f), a damage waiver
17 shall provide or, if not expressly stated in writing, shall be deemed
18 to provide that the renter has no liability for a damage, loss, loss
19 of use, or a cost or expense incident thereto.

20 (2) Except as provided in subdivision (f), every limitation,
21 exception, or exclusion to a damage waiver is void and
22 unenforceable.

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

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

33 (2) Damage or loss occurs while the vehicle is (A) used for
34 commercial hire, (B) used in connection with conduct that could
35 be properly charged as a felony, (C) involved in a speed test or
36 contest or in driver training activity, (D) operated by a person other
37 than an authorized driver, or (E) operated outside the United States.

38 (3) An authorized driver who has (A) provided fraudulent
39 information to the rental company, or (B) provided false

1 information and the rental company would not have rented the
2 vehicle if it had instead received true information.

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

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

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

5
6 “NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
7 AND OPTIONAL DAMAGE WAIVER
8

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

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

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

23 The rental company will not hold you responsible if you buy a
24 damage waiver. But a damage waiver will not protect you if (list
25 exceptions).”

26 (A) When the above notice is printed in the rental contract or
27 holder in which the contract is placed, the following shall be printed
28 immediately following the notice:

29 “The cost of an optional damage waiver is \$____ for every (day
30 or week).”

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

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

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

39 (1) For rental vehicles that the rental company designates as an
40 “economy car,” “subcompact car,” “compact car,” or another term

1 having similar meaning when offered for rental, or another vehicle
2 having a manufacturer’s suggested retail price of nineteen thousand
3 dollars (\$19,000) or less, the rate shall not exceed nine dollars
4 (\$9).

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

13 (i) The manufacturer’s suggested retail prices described in
14 subdivision (h) shall be adjusted annually to reflect changes from
15 the previous year in the Consumer Price Index. For the purposes
16 of this section, “Consumer Price Index” means the United States
17 Consumer Price Index for All Urban Consumers, for all items.

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

22 (k) (1) A rental company shall not require the purchase of a
23 damage waiver, optional insurance, or another optional good or
24 service.

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

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

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

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

6 (A) Collection of the fee by the rental company is required by
7 an airport operated by a city, a county, a city and county, a joint
8 powers authority, a special district, or the San Diego County
9 Regional Airport Authority formed pursuant to Division 17
10 (commencing with Section 170000) of the Public Utilities Code.

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

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

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

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

27 (F) Revenues collected from the fee do not exceed the reasonable
28 costs of financing, designing, constructing, or operating the facility
29 or transportation services and shall not be used for any other
30 purpose.

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

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

35 (2) Notwithstanding any other provision of law, including, but
36 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
37 (commencing with Section 7280), inclusive, of Division 2 of the
38 Revenue and Taxation Code, the fees collected pursuant to this
39 section, or another law whereby a local agency operating an airport
40 requires a rental car company to collect a facility financing fee

1 from its customers, are not subject to sales, use, or transaction
2 taxes.

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

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

30 (3) A rental company shall not charge a fee for authorized
31 drivers in addition to the rental charge for an individual renter.

32 (4) If a rental company states a rental rate in print advertisement
33 or in a telephonic, in-person, or computer-transmitted quotation,
34 the rental company shall disclose clearly in that advertisement or
35 quotation the terms of mileage conditions relating to the advertised
36 or quoted rental rate, including, but not limited to, to the extent
37 applicable, the amount of mileage and gas charges, the number of
38 miles for which no charges will be imposed, and a description of
39 geographic driving limitations within the United States and Canada.

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

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

31 (6) If a rental company delivers a vehicle to a renter at a location
32 other than the location where the rental company normally carries
33 on its business, the rental company shall not charge the renter an
34 amount for the rental for the period before the delivery of the
35 vehicle. If a rental company picks up a rented vehicle from a renter
36 at a location other than the location where the rental company
37 normally carries on its business, the rental company shall not
38 charge the renter an amount for the rental for the period after the
39 renter notifies the rental company to pick up the vehicle.

1 (o) A rental company shall not use, access, or obtain any
2 information relating to the renter's use of the rental vehicle that
3 was obtained using electronic surveillance technology, except in
4 the following circumstances:

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

8 (i) The renter or law enforcement has informed the rental
9 company that the vehicle is missing or has been stolen or
10 abandoned.

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

14 (iii) The rental company discovers the rental vehicle has been
15 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
16 to law enforcement by filing a stolen vehicle report, unless law
17 enforcement has already informed the rental company that the
18 vehicle is missing or has been stolen or abandoned.

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

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

38 (3) This subdivision does not prohibit a rental company from
39 equipping rental vehicles with GPS-based technology that provides
40 navigation assistance to the occupants of the rental vehicle, if the

1 rental company does not use, access, or obtain information relating
2 to the renter's use of the rental vehicle that was obtained using
3 that technology, except for the purposes of discovering or repairing
4 a defect in the technology and the information may then be used
5 only for that purpose.

6 (4) This subdivision does not prohibit a rental company from
7 equipping rental vehicles with electronic surveillance technology
8 that allows for the remote locking or unlocking of the vehicle at
9 the request of the renter, if the rental company does not use, access,
10 or obtain information relating to the renter's use of the rental
11 vehicle that was obtained using that technology, except as
12 necessary to lock or unlock the vehicle.

13 (5) This subdivision does not prohibit a rental company from
14 equipping rental vehicles with electronic surveillance technology
15 that allows the company to provide roadside assistance, such as
16 towing, flat tire, or fuel services, at the request of the renter, if the
17 rental company does not use, access, or obtain information relating
18 to the renter's use of the rental vehicle that was obtained using
19 that technology except as necessary to provide the requested
20 roadside assistance.

21 (6) This subdivision does not prohibit a rental company from
22 obtaining, accessing, or using information from electronic
23 surveillance technology for the sole purpose of determining the
24 date and time the vehicle is returned to the rental company, and
25 the total mileage driven and the vehicle fuel level of the returned
26 vehicle. This paragraph, however, shall apply only after the renter
27 has returned the vehicle to the rental company, and the information
28 shall only be used for the purpose described in this paragraph.

29 (p) A rental company shall not use electronic surveillance
30 technology to track a renter in order to impose fines or surcharges
31 relating to the renter's use of the rental vehicle.

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

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

1 (s) A waiver of any of the provisions of this section shall be
2 void and unenforceable as contrary to public policy.

3 (t) (1) A rental company’s disclosure requirements shall be
4 satisfied for renters who are enrolled in the rental company’s
5 membership program if all of the following conditions are met:

6 (A) Prior to the enrollee’s first rental as a participant in the
7 program, the renter receives, in writing, the following:

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

11 (ii) An Internet Web site address, as well as a contact number
12 or address, where the enrollee can learn of changes to the rental
13 agreement or to the laws of this state governing rental agreements
14 since the effective date of the rental company’s most recent
15 restatement of the rental agreement and distribution of that
16 restatement to its members.

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

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

30 The hanger shall provide the renter a box to initial if he or she
31 (not his or her employer) has previously accepted or declined the
32 collision damage waiver and that he or she now wishes to change
33 his or her decision to accept or decline the collision damage waiver,
34 as follows:

35 “ If I previously accepted the collision damage waiver, I
36 now decline it.

37 If I previously declined the collision damage waiver, I now
38 accept it.”

39 The hanger shall also provide a box for the enrollee to indicate
40 whether this change applies to this rental transaction only or to all

1 future rental transactions. The hanger shall also notify the renter
2 that he or she may make that change, prior to leaving the lot, by
3 returning the form to an employee designated to receive the form
4 who is present at the lot where the renter takes possession of the
5 car, to receive any change in the rental agreement from the renter.

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

9 (B) This subdivision does not relieve the rental company from
10 the disclosures required to be made within the text of a contract
11 or holder in which the contract is placed; in or on an advertisement
12 containing a rental rate; or in a telephonic, in-person, or
13 computer-transmitted quotation or reservation.

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

19 SEC. 29. Section 1993 of the Civil Code is amended to read:

20 1993. This chapter shall only apply to commercial real property.
21 As used in this chapter, the following terms have the following
22 meanings:

23 (a) “Commercial real property” has the meaning specified in
24 subdivision (d) of Section 1954.26 and shall not include
25 self-storage units.

26 (b) “Landlord” means any operator, keeper, lessor, or sublessor
27 of any furnished or unfurnished premises for hire, or his or her
28 agent or successor in interest.

29 (c) “Owner” means any person other than the landlord who has
30 any right, title, or interest in property.

31 (d) “Premises” includes any common areas associated with the
32 commercial real property.

33 (e) “Reasonable belief” means the actual knowledge or belief
34 a prudent person would have without making an investigation,
35 including an investigation of public records, except that, if the
36 landlord has specific information indicating that an investigation
37 would more probably than not reveal pertinent information and
38 the cost of an investigation would be reasonable in relation to the
39 probable value of the property involved, “reasonable belief” means

1 the actual knowledge or belief a prudent person would have if an
2 investigation were made.

3 (f) “Tenant” includes any lessee or sublessee of any commercial
4 real property and its premises for hire.

5 SEC. 30. Section 1993.02 of the Civil Code is amended to
6 read:

7 1993.02. (a) This chapter provides an optional procedure for
8 the disposition of property that remains on the premises after a
9 tenancy of commercial real property has terminated and the
10 premises have been vacated by the tenant.

11 (b) This chapter does not apply if Section 1862.5, 2080.8, or
12 2080.9, or Article 2 (commencing with Section 2081) of Chapter
13 4 of Title 6, apply. This chapter does not apply to property that
14 exists for the purpose of providing utility services and is owned
15 by a public utility, whether or not that property is actually in
16 operation to provide those utility services.

17 (c) This chapter does not apply to a manufactured home, as
18 defined in Section 18007 of the Health and Safety Code, a
19 mobilehome, as defined in Section 18008 of the Health and Safety
20 Code, or a commercial coach, as defined in Section 18001.8 of the
21 Health and Safety Code, including any attachments or contents,
22 whether or not the manufactured home, mobilehome, or
23 commercial coach is subject to registration under the Health and
24 Safety Code.

25 (d) This chapter does not apply to the disposition of animals
26 subject to Chapter 7 (commencing with Section 17001) of Part 1
27 of Division 9 of the Food and Agricultural Code.

28 (e) This chapter does not apply to residential property or
29 self-storage units.

30 (f) If the requirements of this chapter are not satisfied, nothing
31 in this chapter affects the rights and liabilities of the landlord,
32 former tenant, or any other person.

33 SEC. 31. Section 1993.03 of the Civil Code is amended to
34 read:

35 1993.03. (a) If property remains on the premises after a tenancy
36 has terminated and the premises have been vacated by the tenant,
37 the landlord shall give written notice to the tenant and to any other
38 person the landlord reasonably believes to be the owner of the
39 property.

1 (b) The notice shall describe the property in a manner reasonably
 2 adequate to permit the owner of the property to identify it. The
 3 notice may describe all or a portion of the property, but the
 4 limitation of liability provided by Section 1993.08 shall not protect
 5 the landlord from any liability arising from the disposition of
 6 property not described in the notice, except that a trunk, valise,
 7 box, safe, vault, or other container that is locked, fastened, or tied
 8 in a manner that deters immediate access to its contents may be
 9 described as such without describing its contents. The notice shall
 10 advise the person to be notified that reasonable costs of storage
 11 may be charged before the property is returned, where the property
 12 may be claimed, and the date before which the claim must be made.
 13 The date specified in the notice shall be a date not less than 15
 14 days after the notice is personally delivered or, if mailed, not less
 15 than 18 days after the notice is deposited in the mail.

16 (c) The notice shall be personally delivered to the person to be
 17 notified or sent by first-class mail, postage prepaid, to the person
 18 to be notified at his or her last known address and, if there is reason
 19 to believe that the notice sent to that address will not be received
 20 by that person, also to any other address known to the landlord
 21 where the person may reasonably be expected to receive the notice.
 22 If the notice is sent by mail to the former tenant, one copy shall
 23 be sent to the premises vacated by the tenant.

24 SEC. 32. Section 1993.04 of the Civil Code is amended to
 25 read:

26 1993.04. (a) A notice given to the former tenant that is in
 27 substantially the following form satisfies the requirements of
 28 Section 1993.03:

29

30 Notice of Right to Reclaim Abandoned Property

31 To: _____

32 (Name of former tenant)

33 _____

34 (Address of former tenant)

35 When you vacated the premises at _____,

36 _____,

37 (Address of premises, including room, if any)

38 the following personal property remained:

39 _____

40 (Insert description of the personal property)

1 You may claim this property at _____

2 _____

3 (Address where property may be claimed)

4 Unless you pay the reasonable cost of storage for all of the above-described
5 property, and take possession of the property which you claim, not later than

6 _____ (insert date not less than 15 days after notice is personally delivered

7 or, if mailed, not less than 18 days after notice is deposited in the mail) this

8 property may be disposed of pursuant to Section 1993.07 of the Civil Code.

9 (Insert here the statement required by subdivision (b) of this section)

10 Dated: _____

11 (Signature of landlord)

12 _____
13 (Type or print name of landlord)

14 _____
15 (Telephone number of landlord)

16 _____
17 (Address of landlord)

18
19 (b) The notice set forth in subdivision (a) shall also contain one
20 of the following statements:

21 (1) "If you fail to reclaim the property, it will be sold at a public
22 sale after notice of the sale has been given by publication. You
23 have the right to bid on the property at this sale. After the property
24 is sold and the cost of storage, advertising, and sale is deducted,
25 the remaining money will be paid over to the county. You may
26 claim the remaining money at any time within one year after the
27 county receives the money."

28 (2) "Because you were a commercial tenant and this property
29 is believed to be worth less than the lesser of seven hundred fifty
30 dollars (\$750), or one dollar (\$1) per square foot of the premises
31 you occupied, it may be kept, sold, or destroyed without further
32 notice if you fail to reclaim it within the time indicated above."

33 SEC. 33. Section 1993.05 of the Civil Code is amended to
34 read:

35 1993.05. A notice in substantially the following form given to
36 a person (other than the former tenant) the landlord reasonably
37 believes to be the owner of personal property satisfies the
38 requirements of Section 1993.03:

39
40 Notice of Right to Reclaim Abandoned Property

1 To: _____
2 (Name of owner)

3 _____
4 (Address of owner)

5 When _____ vacated the premises at
6 (Name of former tenant)

7 _____,
8 (Address of premises, including room, if any)

9 the following personal property remained:
10 _____
11 (Insert description of the personal property)

12 You may claim this property at _____
13 _____.
14 (Address where property may be claimed)

15 Unless you pay the reasonable cost of storage for all of the above-described
16 property, and take possession of the property that you claim, not later than
17 _____ (insert date not less than 15 days after notice is personally delivered
18 or, if mailed, not less than 18 days after notice is deposited in the mail) this
19 property may be disposed of pursuant to Section 1993.07 of the Civil Code.

20 (Insert here the statement required by subdivision (b) of this section)

21 Dated: _____
22 (Signature of landlord)

23 _____
24 (Type or print name of landlord)

25 _____
26 (Telephone number of landlord)

27 _____
28 (Address of landlord)

29
30 SEC. 34. Section 1993.07 of the Civil Code is amended to
31 read:

32 1993.07. (a) (1) The property described in the notice that is
33 not released pursuant to Section 1987 shall be sold at public sale
34 by competitive bidding except that, if the landlord reasonably
35 believes that the total resale value of the property is less than the
36 threshold amount, the landlord may retain the property for his or
37 her own use or dispose of it in any manner.

38 (2) For the purposes of this section, "threshold amount" means
39 the lesser of seven hundred fifty dollars (\$750) or one dollar (\$1)
40 per square foot of the premises occupied by the tenant.

1 (b) (1) Notice of the time and place of the public sale shall be
2 given by publication pursuant to Section 6066 of the Government
3 Code in a newspaper of general circulation published in the county
4 where the sale is to be held.

5 (2) The last publication shall be not less than five days before
6 the sale is to be held.

7 (3) The notice of the sale shall not be published before the last
8 of the dates specified for taking possession of the property in any
9 notice given pursuant to Section 1993.03.

10 (4) The notice of the sale shall describe the property to be sold
11 in a manner reasonably adequate to permit the owner of the
12 property to identify it.

13 (5) The notice may describe all or a portion of the property, but
14 the limitation of liability provided by Section 1993.08 does not
15 protect the landlord from any liability arising from the disposition
16 of property not described in the notice, except that a trunk, valise,
17 box, safe, vault, or other container that is locked, fastened, or tied
18 in a manner that deters immediate access to its contents may be
19 described as such without describing its contents.

20 (c) (1) After deduction of the costs of storage, advertising, and
21 sale, any balance of the proceeds of the sale that is not claimed by
22 the former tenant or an owner other than the tenant shall be paid
23 into the treasury of the county in which the sale took place not
24 later than 30 days after the date of sale.

25 (2) The former tenant or other owner may claim the balance
26 within one year from the date of payment to the county by making
27 application to the county treasurer or other official designated by
28 the county.

29 (3) If the county pays the balance or any part thereof to a
30 claimant, neither the county nor any officer or employee thereof
31 shall be liable to any other claimant as to the amount paid.

32 (d) Nothing in this section precludes a landlord or tenant from
33 bidding on the property at the public sale.

34 SEC. 35. Section 1993.08 of the Civil Code is amended to
35 read:

36 1993.08. (a) Notwithstanding subdivision (c) of Section
37 1993.02, if the landlord releases to the former tenant property that
38 remains on the premises after a tenancy is terminated, the landlord
39 shall not be liable with respect to that property to any person.

1 (b) If the landlord releases property pursuant to Section 1987
2 to a person, other than the former tenant, who is reasonably
3 believed by the landlord to be the owner of the property, the
4 landlord shall not be liable with respect to that property to any of
5 the following persons:

6 (1) A person to whom notice was given pursuant to Section
7 1993.03.

8 (2) A person to whom notice was not given pursuant to Section
9 1993.03, unless the person proves that, prior to releasing the
10 property, the landlord believed or reasonably should have believed
11 that the person had an interest in the property and also that the
12 landlord knew or should have known upon reasonable investigation
13 the address of the person.

14 (c) If property is disposed of pursuant to Section 1993.07, the
15 landlord shall not be liable with respect to that property to any of
16 the following persons:

17 (1) A person to whom notice was given pursuant to Section
18 1993.03.

19 (2) A person to whom notice was not given pursuant to Section
20 1993.03, unless the person proves that, prior to disposing of the
21 property pursuant to Section 1993.07, the landlord believed or
22 reasonably should have believed that the person had an interest in
23 the property and also that the landlord knew or should have known
24 upon reasonable investigation the address of the person.

25 SEC. 36. Section 1993.09 of the Civil Code is amended to
26 read:

27 1993.09. If a notice of belief of abandonment is given to a
28 lessee pursuant to Section 1951.3, the notice to the former tenant
29 given pursuant to Section 1993.03 may be given at the same time
30 as the notice of belief of abandonment, even though the tenancy
31 is not terminated until the end of the period specified in the notice
32 of belief of abandonment. The notices may be combined in one
33 notice that contains all the information required by the sections
34 under which the notices are given.

35 SEC. 37. Section 2782.96 of the Civil Code is amended to
36 read:

37 2782.96. If an owner, builder, or general contractor obtains a
38 wrap-up insurance policy or other consolidated insurance program
39 for a public work as defined in Section 1720 of the Labor Code or
40 any other project other than residential construction, as that term

1 is used in Title 7 (commencing with Section 895) of Part 2 of
2 Division 2, that is put out for bid after January 1, 2009, the
3 following shall apply:

4 (a) The total amount or method of calculation of any credit or
5 compensation for premium required from a subcontractor or other
6 participant for that policy shall be clearly delineated in the bid
7 documents.

8 (b) The named insured, to the extent known, shall disclose to
9 the subcontractor or other participant in the contract documents
10 the policy limits, known exclusions, and the length of time the
11 policy is intended to remain in effect. In addition, upon written
12 request, once available, the named insured shall provide copies of
13 insurance policies to all those who are covered by the policy. Until
14 such time as the policies are available, the named insured may also
15 satisfy the disclosure requirements of this subdivision by providing
16 the subcontractor or other participant with a copy of the insurance
17 binder or declaration of coverage. Any party receiving a copy of
18 the policy, binder, or declaration shall not disclose it to third parties
19 other than the participant’s insurance broker or attorney unless
20 required to do so by law. The participant’s insurance broker or
21 attorney may not disclose the policy, binder, or declaration to any
22 third party unless required to do so by law.

23 (c) The disclosure requirements in subdivisions (a) and (b) do
24 not apply to an insurance policy purchased by an owner, builder,
25 or general contractor that provides additional coverage beyond
26 what was contained in the original wrap-up policy or other
27 consolidated insurance program if no credit or compensation for
28 premium is required of the subcontractor for the additional
29 insurance policy.

30 SEC. 38. Section 416.80 of the Code of Civil Procedure is
31 amended to read:

32 416.80. When authorized by Section 12 of the Elections Code,
33 a summons may be served as provided by that section.

34 SEC. 39. Section 697.350 of the Code of Civil Procedure is
35 amended to read:

36 697.350. (a) Except as otherwise provided by statute, a
37 judgment lien on real property is a lien for the amount required to
38 satisfy the money judgment.

39 (b) A judgment lien on real property created under a money
40 judgment payable in installments pursuant to Section 116.620 or

1 582.5 of this code or Section 16380 of the Vehicle Code or under
2 a similar judgment is in the full amount required to satisfy the
3 judgment, but the judgment lien may not be enforced for the
4 amount of unmaturred installments unless the court so orders.

5 (c) A judgment lien created pursuant to Section 697.320 is a
6 lien for the amount of the installments as they mature under the
7 terms of the judgment, plus accrued interest and the costs as they
8 are added to the judgment pursuant to Chapter 5 (commencing
9 with Section 685.010) of Division 1, and less the amount of any
10 partial satisfactions, but does not become a lien for any installment
11 until it becomes due and payable under the terms of the judgment.

12 SEC. 40. Section 8210 of the Corporations Code is amended
13 to read:

14 8210. (a) Every corporation shall, within 90 days after the
15 filing of its original articles and biennially thereafter during the
16 applicable filing period, file, on a form prescribed by the Secretary
17 of State, a statement containing: (1) the names and complete
18 business or residence addresses of its chief executive officer,
19 secretary, and chief financial officer, (2) the street address of its
20 principal office in this state, if any, and (3) the mailing address of
21 the corporation, if different from the street address of its principal
22 executive office or if the corporation has no principal office address
23 in this state.

24 (b) The statement required by subdivision (a) shall also
25 designate, as the agent of the corporation for the purpose of service
26 of process, a natural person residing in this state or any domestic
27 or foreign or foreign business corporation that has complied with
28 Section 1505 and whose capacity to act as an agent has not
29 terminated. If a natural person is designated, the statement shall
30 set forth the person's complete business or residence street address.
31 If a corporate agent is designated, no address for it shall be set
32 forth.

33 (c) For the purposes of this section, the applicable filing period
34 for a corporation shall be the calendar month during which its
35 original articles were filed and the immediately preceding five
36 calendar months. The Secretary of State shall mail a notice for
37 compliance with this section to each corporation approximately
38 three months prior to the close of the applicable filing period. The
39 notice shall state the due date for compliance and shall be mailed
40 to the last address of the corporation according to the records of

1 the Secretary of State. Neither the failure of the Secretary of State
2 to mail the notice nor the failure of the corporation to receive it is
3 an excuse for failure to comply with this section.

4 (d) Whenever any of the information required by subdivision
5 (a) is changed, the corporation may file a current statement
6 containing all the information required by subdivisions (a) and
7 (b). In order to change its agent for service of process or the address
8 of the agent, the corporation must file a current statement
9 containing all the information required by subdivisions (a) and
10 (b). Whenever any statement is filed pursuant to this section, it
11 supersedes any previously filed statement and the statement in the
12 articles as to the agent for service of process and the address of
13 the agent.

14 (e) The Secretary of State may destroy or otherwise dispose of
15 any statement filed pursuant to this section after it has been
16 superseded by the filing of a new statement.

17 (f) This section shall not be construed to place any person
18 dealing with the corporation on notice of, or under any duty to
19 inquire about, the existence or content of a statement filed pursuant
20 to this section.

21 SEC. 41. Section 31155 of the Corporations Code is amended
22 to read:

23 31155. Every applicant for registration of an offer to sell
24 franchises under this law, by other than a California corporation,
25 California limited partnership, or California limited liability
26 company, shall file with the commissioner, in such form as he or
27 she by rule prescribed, an irrevocable consent appointing the
28 commissioner or his or her successor in office to be his or her
29 attorney to receive service of any lawful process in any noncriminal
30 suit, action or proceeding against him or her or his or her successor,
31 executor or administrator, which arises under this law or any rule
32 or order hereunder after the consent has been filed, with the same
33 force and validity as if served personally on the person filing the
34 consent. A person who has filed such a consent in connection with
35 a previous registration under this law need not file another. Service
36 may be made by leaving a copy of the process in the office of the
37 commissioner but it is not effective unless (a) the plaintiff, who
38 may be the commissioner in a suit, action, or proceeding instituted
39 by him or her, forthwith sends notice of the service and a copy of
40 the process by registered or certified mail to the defendant or

1 respondent at his or her last address on file with the commissioner,
2 and (b) the plaintiff’s affidavit of compliance with this section is
3 filed in the case on or before the return day of the process, if any,
4 or within such further time as the court allows.

5 SEC. 42. Section 219 of the Education Code is amended and
6 renumbered to read:

7 210.2. “Disability, gender, nationality, race or ethnicity,
8 religion, sexual orientation, or any other characteristic contained
9 in the definition of hate crimes set forth in Section 422.55 of the
10 Penal Code” includes a perception that the person has any of those
11 characteristics or that the person is associated with a person who
12 has, or is perceived to have, any of those characteristics.

13 SEC. 43. Section 8300 of the Education Code is amended to
14 read:

15 8300. (a) The Early Learning Quality Improvement System
16 Advisory Committee is hereby established in the state government.
17 The advisory committee shall consist of 13 members as follows:

18 (1) The Superintendent of Public Instruction or his or her
19 designee.

20 (2) The Secretary for Education or his or her designee.

21 (3) The President pro Tempore of the Senate or his or her
22 designee.

23 (4) The Speaker of the Assembly or his or her designee.

24 (5) The Director of Finance or his or her designee.

25 (6) The Director of Social Services or his or her designee.

26 (7) The Governor shall appoint two representatives.

27 (8) The Chairperson of the California Children and Families
28 Commission or his or her designee.

29 (9) The Senate Committee on Rules shall appoint two
30 representatives from the early care and education community, one
31 who is a program administrator of a child development program
32 funded by the department, and another who is a caregiver for
33 infants and toddlers.

34 (10) The Speaker of the Assembly shall appoint two
35 representatives, one from the early care and education community
36 who has experience with English learners, and one who is a local
37 educational agency teacher who teaches kindergarten.

38 (b) The Superintendent and the Secretary for Education or their
39 designees shall be cochairpersons of the committee.

1 (c) The advisory committee shall seek input through the
2 establishment of subcommittees or other methods from persons
3 with expertise in the following areas: early learning quality
4 improvement systems in use nationwide; early care and education,
5 including representatives from the higher education segments, the
6 Commission on Teacher Credentialing, and administrators,
7 caregivers, and teachers from both the public and private sectors;
8 K–12 public school teachers; English language development,
9 including primary and secondary language acquisition; education
10 and care of children with exceptional needs and disabilities; infant
11 and toddler care; consumer education; parent and guardian
12 engagement; workforce development; facilities development;
13 technical assistance; and program accreditation.

14 SEC. 44. Section 8447 of the Education Code is amended to
15 read:

16 8447. (a) The Legislature hereby finds and declares that greater
17 efficiencies may be achieved in the execution of state subsidized
18 child care and development program contracts with public and
19 private agencies by the timely approval of contract provisions by
20 the Department of Finance, the Department of General Services,
21 and the State Department of Education and by authorizing the State
22 Department of Education to establish a multiyear application,
23 contract expenditure, and service review as may be necessary to
24 provide timely service while preserving audit and oversight
25 functions to protect the public welfare.

26 (b) (1) The Department of Finance and the Department of
27 General Services shall approve or disapprove annual contract
28 funding terms and conditions, including both family fee schedules
29 and regional market rate schedules that are required to be adhered
30 to by contract, and contract face sheets submitted by the State
31 Department of Education not more than 30 working days from the
32 date of submission, unless unresolved conflicts remain between
33 the Department of Finance, the State Department of Education,
34 and the Department of General Services. The State Department of
35 Education shall resolve conflicts within an additional
36 30-working-day time period. Contracts and funding terms and
37 conditions shall be issued to child care contractors no later than
38 June 1. Applications for new child care funding shall be issued
39 not more than 45 working days after the effective date of authorized
40 new allocations of child care moneys.

1 (2) Notwithstanding paragraph (1), for the 2008–09 fiscal year,
2 the State Department of Education shall implement the regional
3 market rate schedules based upon the county aggregates, as
4 determined by the Regional Market Survey conducted in 2007.

5 (3) Notwithstanding paragraph (1), for the 2006–07 fiscal year,
6 the State Department of Education shall update the family fee
7 schedules by family size, based on the 2005 state median income
8 survey data for a family of four. The family fee schedule used
9 during the 2005–06 fiscal year shall remain in effect. However,
10 the department shall adjust the family fee schedule for families
11 that are newly eligible to receive or will continue to receive services
12 under the new income eligibility limits. The family fees shall not
13 exceed 10 percent of the family’s monthly income.

14 (4) It is the intent of the Legislature to fully fund the third stage
15 of child care for former CalWORKs recipients.

16 (c) With respect to subdivision (b), it is the intent of the
17 Legislature that the Department of Finance annually review
18 contract funding terms and conditions for the primary purpose of
19 ensuring consistency between child care contracts and the child
20 care budget. This review shall include evaluating any proposed
21 changes to contract language or other fiscal documents to which
22 the contractor is required to adhere, including those changes to
23 terms or conditions that authorize higher reimbursement rates,
24 modify related adjustment factors, modify administrative or other
25 service allowances, or diminish fee revenues otherwise available
26 for services, to determine if the change is necessary or has the
27 potential effect of reducing the number of full-time equivalent
28 children that may be served.

29 (d) Alternative payment child care systems, as set forth in Article
30 3 (commencing with Section 8220), shall be subject to the rates
31 established in the Regional Market Rate Survey of California Child
32 Care Providers for provider payments. The State Department of
33 Education shall contract to conduct and complete a Regional
34 Market Rate Survey no more frequently than once every two years,
35 consistent with federal regulations, with a goal of completion by
36 March 1.

37 (e) By March 1 of each year, the Department of Finance shall
38 provide to the State Department of Education the state median
39 income amount for a four-person household in California based
40 on the best available data. The State Department of Education shall

1 adjust its fee schedule for child care providers to reflect this
2 updated state median income.

3 (f) Notwithstanding the June 1 date specified in subdivision (b),
4 changes to the regional market rate schedules and fee schedules
5 may be made at any other time to reflect the availability of accurate
6 data necessary for their completion, provided that these documents
7 receive the approval of the Department of Finance. The Department
8 of Finance shall review the changes within 30 working days of
9 submission and the State Department of Education shall resolve
10 conflicts within an additional 30-working-day period. Contractors
11 shall be given adequate notice prior to the effective date of the
12 approved schedules. It is the intent of the Legislature that contracts
13 for services not be delayed by the timing of the availability of
14 accurate data needed to update these schedules.

15 (g) Notwithstanding any other provision of law, no family
16 receiving CalWORKs cash aid may be charged a family fee.

17 SEC. 45. Section 8483.7 of the Education Code is amended to
18 read:

19 8483.7. (a) (1) (A) Each school that establishes a program
20 pursuant to this article is eligible to receive a three-year direct
21 grant, that shall be awarded in three one-year increments and is
22 subject to semiannual attendance reporting and requirements as
23 described in Section 8482.3 once every three years.

24 (i) The department shall provide technical support for
25 development of a program improvement plan for grantees under
26 the following conditions:

27 (I) If actual pupil attendance falls below 75 percent of the target
28 attendance level in any year of the grant.

29 (II) If the grantee fails, in any year of the grant, to demonstrate
30 measurable outcomes pursuant to Section 8484.

31 (ii) The department shall adjust the grant level of any school
32 within the program that is under its targeted attendance level by
33 more than 15 percent in each of two consecutive years.

34 (iii) In any year after the initial grant year, if the actual
35 attendance level of a school within the program falls below 75
36 percent of the target attendance level, the department shall perform
37 a review of the program and adjust the grant level as the department
38 deems appropriate.

39 (iv) The department shall create a process to allow a grantee to
40 voluntarily lower its annual grant amount if one or more sites are

1 unable to meet the proposed pupil attendance levels by the end of
2 the second year of the grant.

3 (v) A grantee who has had its grant amount reduced may
4 subsequently request an increase in funding up to the maximum
5 grant amounts provided under this subdivision.

6 (vi) The department may terminate the grant of any site or
7 program that does not comply with fiscal reporting, attendance
8 reporting, or outcomes reporting requirements established by the
9 department and pursuant to Section 8484. The department may
10 withhold the grant allocation for a program or site if the prior grant
11 year's fiscal or attendance reporting remains outstanding, until the
12 reports have been filed with the department.

13 (vii) Notwithstanding any other provision of this subdivision
14 or any other provision of law, after the technical assistance required
15 under clause (i) has been provided, the department may at any time
16 terminate the grant of any school in a program that fails for three
17 consecutive years to meet either of the following requirements:

18 (I) Demonstrate measurable program outcomes pursuant to
19 Section 8484.

20 (II) Attain 75 percent of its proposed attendance level after
21 having had its program reviewed and grant level adjusted by the
22 department.

23 (B) Direct grants may be awarded to applicants that have
24 demonstrated readiness to begin operation of a program or to
25 expand existing programs.

26 (C) The maximum total direct grant amount awarded annually
27 pursuant to this paragraph shall be one hundred twelve thousand
28 five hundred dollars (\$112,500) for each regular school year for
29 each elementary school and one hundred fifty thousand dollars
30 (\$150,000) for each regular school year for each middle or junior
31 high school. The Superintendent shall determine the total annual
32 direct grant amount for which a site is eligible based on a formula
33 of seven dollars and fifty cents (\$7.50) per pupil per day of pupil
34 attendance that the program plans to serve, with a maximum total
35 grant of thirty-seven dollars and fifty cents (\$37.50) per projected
36 pupil per week, and a formula of seven dollars and fifty cents
37 (\$7.50) per projected pupil per day of staff development, with a
38 maximum of three staff development days per year. A program
39 may provide the three days of staff development during regular
40 program hours using funds from the total grant award.

- 1 (2) For large schools, the maximum total grant amounts
2 described in paragraph (1) may be increased based on the following
3 formulas, up to a maximum amount of twice the respective limits
4 specified in paragraph (1):
- 5 (A) For elementary schools, multiply one hundred thirteen
6 dollars (\$113) by the number of pupils enrolled at the schoolsite
7 for the normal schoolday program that exceeds 600.
- 8 (B) For middle schools, multiply one hundred thirteen dollars
9 (\$113) by the number of pupils enrolled at the schoolsite for the
10 normal schoolday program that exceeds 900.
- 11 (3) The maximum total grant amounts set forth in subparagraph
12 (C) of paragraph (1) may be increased from any funds made
13 available for this purpose in the annual Budget Act for participating
14 schools that have pupils on waiting lists for the program. Grants
15 may be increased by the lesser of an amount that is either 25
16 percent of the current maximum total grant amount or equal to the
17 proportion of pupils unserved by the program as measured by
18 documented waiting lists as of January 1 of the previous grant
19 year, compared to the actual after school enrollment on the same
20 date. The amount of the required cash or in-kind matching funds
21 shall be increased accordingly. First priority for an increased
22 maximum grant pursuant to this paragraph shall be given to schools
23 that qualify for funding pursuant to subdivision (b) of Section
24 8482.55. Second priority shall be given to schools that receive
25 funding priority pursuant to subdivision (f) of Section 8482.55.
- 26 (4) A school that establishes a program pursuant to this section
27 is eligible to receive a supplemental grant to operate the program
28 in excess of 180 regular schooldays or during any combination of
29 summer, intersession, or vacation periods for a maximum of the
30 lesser of the following amounts:
- 31 (A) Seven dollars and fifty cents (\$7.50) per day per pupil.
- 32 (B) Thirty percent of the total grant amount awarded to the
33 school per school year pursuant to subparagraph (C) of paragraph
34 (1).
- 35 (5) Each program shall provide an amount of cash or in-kind
36 local funds equal to not less than one-third of the total grant from
37 the school district, governmental agencies, community
38 organizations, or the private sector. Facilities or space usage may
39 fulfill not more than 25 percent of the required local contribution.

1 (6) (A) A grantee may allocate, with departmental approval,
2 up to 125 percent of the maximum total grant amount for an
3 individual school, so long as the maximum total grant amount for
4 all school programs administered by the program grantee is not
5 exceeded.

6 (B) A program grantee that transfers funds for purposes of
7 administering a program pursuant to subparagraph (A) shall have
8 an established waiting list for enrollment, and may transfer only
9 from another school program that has met a minimum of 70 percent
10 of its attendance goal.

11 (b) The administrator of a program established pursuant to this
12 article may supplement, but not supplant, existing funding for after
13 school programs with grant funds awarded pursuant to this article.
14 State categorical funds for remedial education activities shall not
15 be used to make the required contribution of local funds for those
16 after school programs.

17 (c) Up to 15 percent of the initial year's grant amount for each
18 grant recipient may be utilized for startup costs. Under no
19 circumstance shall funding for startup costs result in an increase
20 in the grant recipient's total funding above the approved grant
21 amount.

22 (d) For each year of the grant, the department shall award the
23 total grant amount for that year not later than 30 days after the date
24 the grantee accepts the grant.

25 (e) The department may adjust the amount of a direct grant,
26 awarded to a new applicant pursuant to this section, on the basis
27 of the program start date, as determined by the department.

28 SEC. 46. Section 10802 of the Education Code is amended to
29 read:

30 10802. The department shall establish a process by which local
31 educational agencies issue, maintain, and report information using
32 the unique statewide pupil identifiers specified in paragraph (3)
33 of subdivision (e) of Section 60900 for state and federally funded
34 center-based child care and development programs under their
35 purview. The department shall not require these center-based child
36 care and development programs to implement or maintain unique
37 pupil identifiers specified in paragraph (3) of subdivision (e) of
38 Section 60900 until an appropriation for this purpose is provided
39 in the annual Budget Act or another statute.

1 SEC. 47. Section 17078.57 of the Education Code is amended
2 to read:

3 17078.57. (a) The authority, in consultation with the board,
4 shall adopt regulations establishing uniform terms and conditions
5 that shall apply equally to all projects for funding in accordance
6 with Section 17078.58, including, but not limited to, all of the
7 following:

8 (1) The process for determining the manner in which the
9 applicant will pay its local matching share, including the method
10 for determining lease payments to be made in lieu of the local
11 matching share. The regulations shall comply with all of the
12 following criteria:

13 (A) The payment process set forth in Section 17199.4 may be
14 used.

15 (B) The payment process shall permit lump-sum local matching
16 payments and shall permit establishment of a schedule for lease
17 payments to be made in lieu of the local matching share.

18 (C) The lease payment schedule shall be calculated by
19 amortizing one-half of the total approved project costs, minus
20 lump-sum payments, over the entire payment period as set forth
21 in Section 17078.58.

22 (D) The payment schedule for payments in lieu of the local
23 matching funds pursuant to this section shall be based upon
24 payment, within a reasonable period of time not to exceed a 30-year
25 period, of one-half of the total eligible project costs, and shall be
26 calculated in a manner that is designed to result in full payment
27 of that portion, together with interest thereon at a rate set by the
28 authority. The interest rate shall be set using the lower of the
29 following:

30 (i) The rate paid on moneys in the Pooled Money Investment
31 Account as of the date of disbursement of the funding.

32 (ii) A rate equal to 50 percent of the interest rate paid by the
33 state on the most recent sale of state general obligation bonds, and
34 the interest rate shall be computed according to the true interest
35 cost method.

36 (E) Notwithstanding subparagraph (D), the authority shall not
37 set the interest rate on a loan at a rate lower than 2 percent. Program
38 participants that have locked in an interest rate before January 1,
39 2009, may reset their payment schedule based on the interest rate
40 set pursuant to subparagraph (D) as of January 1, 2009. Program

1 participants executing an agreement on and after January 1, 2009,
2 shall have their interest rate set at the time the funding agreement
3 is executed and shall not renegotiate interest rates without prior
4 approval of the authority.

5 (2) The method for determining whether a charter school is
6 financially sound. In the case of a charter school chartered by a
7 school district that is located outside of the school district that
8 chartered it, the method developed by the authority shall include,
9 but shall not be limited to, a site visit to the school facility currently
10 being used by the charter school during hours when pupils are
11 present and instruction is being provided.

12 (3) (A) Security provisions, including, but not limited to, the
13 requirement that title to project facilities be held by the school
14 district in which the facility is to be physically located, in trust,
15 for the benefit of the state public school system.

16 (B) The authority shall adopt a mechanism whereby a person
17 or entity that provides a substantial contribution that is applied to
18 the costs of the project in excess of the state share and the local
19 matching share may be granted a security interest to be satisfied
20 from the proceeds, if any, realized when the property is ultimately
21 disposed of as set forth in paragraph (5) of subdivision (b) of
22 Section 17078.62.

23 (4) The method for integrating funding pursuant to this article
24 with the general procedures of the authority pursuant to subdivision
25 (i) of Section 17180 for otherwise funding projects eligible for
26 funding under this chapter, if appropriate.

27 (b) The authority may adopt, amend, or repeal rules and
28 regulations pursuant to this chapter as emergency regulations. The
29 adoption, amendment, or repeal of these regulations is conclusively
30 presumed to be necessary for the immediate preservation of the
31 public peace, health, safety, or general welfare within the meaning
32 of Section 11346.1 of the Government Code.

33 SEC. 48. Section 17282.5 of the Education Code is amended
34 to read:

35 17282.5. (a) On or before January 1, 2010, the Division of the
36 State Architect within the Department of General Services shall
37 develop uniform criteria for precheck approval processes for solar
38 design plans, including structural plans and calculations, for a
39 school facility that comply with rules and regulations adopted
40 pursuant to this article and building standards published in Title

1 24 of the California Code of Regulations. The criteria shall include
2 provisions to ensure fire and life safety.

3 (b) The Department of General Services shall complete the
4 review of a solar design plan application submitted by a school
5 district that conforms with the criteria established pursuant to
6 subdivision (a) within 45 calendar days of the receipt of a complete
7 application. If the Department of General Services requests an
8 applicant to submit a corrected application, the Department of
9 General Services shall act on the corrected application within 10
10 calendar days of the date the applicant submits the corrected
11 complete application to that department for approval.

12 *SEC. 48.5. Section 35294.1 of the Education Code, as added*
13 *by Section 3 of Chapter 82 of the Statutes of 1989, is repealed.*

14 ~~35294.1. (a) The governing board of a school district, on behalf~~
15 ~~of one or more schools within the district that have developed a~~
16 ~~school safety plan, may apply to the Superintendent of Public~~
17 ~~Instruction for a grant to implement school safety plans. A grant~~
18 ~~shall be awarded only for school safety plans that include the~~
19 ~~following criteria:~~

20 ~~(1) Assessment of the recent incidence of crime committed on~~
21 ~~the school campus;~~

22 ~~(2) Identification of appropriate strategies and programs that~~
23 ~~will provide or maintain a high level of school safety.~~

24 ~~(3) Development of an action plan, in conjunction with local~~
25 ~~law enforcement agencies, for implementing appropriate safety~~
26 ~~strategies and programs, and determining the fiscal impact of~~
27 ~~executing the strategies and programs. The action plan shall~~
28 ~~identify available resources which will provide for implementation~~
29 ~~of the plan.~~

30 ~~(b) The Superintendent of Public Instruction shall award grants~~
31 ~~pursuant to this section to school districts for the implementation~~
32 ~~of individual school safety plans in an amount not to exceed fifteen~~
33 ~~thousand dollars (\$15,000) for each school. No grant shall be made~~
34 ~~unless the school district makes available, for purposes of~~
35 ~~implementing the school safety plans, an amount of funds equal~~
36 ~~to the amount of the grant. Grants should be awarded through a~~
37 ~~competitive process, based upon criteria including, but not limited~~
38 ~~to, (1) the merit of the proposal and (2) the need for imposing~~
39 ~~school safety, based on school crime rates.~~

1 ~~(e) Any school district receiving a grant under this section shall~~
2 ~~report to the Superintendent of Public Instruction annually for~~
3 ~~three consecutive years following the receipt of the grant~~
4 ~~concerning the impact of the implementation of the school safety~~
5 ~~plan on the incidence of crime on the campus of the school.~~

6 SEC. 49. Section 35400 of the Education Code is amended to
7 read:

8 35400. (a) The Los Angeles Unified School District’s Inspector
9 General of the Office of the Inspector General is authorized to
10 conduct audits and investigations. The inspector general may
11 subpoena witnesses, administer oaths or affirmations, take
12 testimony, and compel the production of all information,
13 documents, reports, answers, records, accounts, papers, and other
14 data and documentary evidence deemed material and relevant and
15 that reasonably relate to the inquiry or investigation undertaken
16 by the inspector general when he or she has a reasonable suspicion
17 that a law, regulation, rule, or district policy has been violated or
18 is being violated. For purposes of this section, “reasonable
19 suspicion” means that the circumstances known or apparent to the
20 inspector general include specific and articulable facts causing
21 him or her to suspect that a material violation of law, regulation,
22 rule, or district policy has occurred or is occurring, and that the
23 facts would cause a reasonable officer in a like position to suspect
24 that a material violation of a law, regulation, rule, or district bulletin
25 has occurred or is occurring.

26 (b) Subpoenas shall be served in the manner provided by law
27 for service of summons. Any subpoena issued pursuant to this
28 section may be subject to challenge pursuant to Chapter 2
29 (commencing with Section 1985) of Title 3 of Part 4 of the Code
30 of Civil Procedure.

31 (c) For purposes of this section, Sections 11184, 11185, 11186,
32 11187, 11188, 11189, 11190, and 11191 of the Government Code
33 shall apply to the subpoenaing of witnesses and documents, reports,
34 answers, records, accounts, papers, and other data and documentary
35 evidence as if the investigation was being conducted by a state
36 department head, except that the applicable court for resolving
37 motions to compel or motions to quash shall be the Superior Court
38 for the County of Los Angeles.

39 (d) Notwithstanding any other provision of the law, any person
40 who, after the administration of an oath or affirmation pursuant to

1 this section, states or affirms as true any material matter that he or
 2 she knows to be false is guilty of a misdemeanor punishable by
 3 imprisonment in a county jail not to exceed six months or by a
 4 fine not to exceed five thousand dollars (\$5,000), or by both that
 5 fine and imprisonment for the first offense. Any subsequent
 6 violation shall be punishable by imprisonment in a county jail not
 7 to exceed one year or by a fine not to exceed ten thousand dollars
 8 (\$10,000), or by both that fine and imprisonment.

9 (e) The inspector general shall submit an interim report to the
 10 Legislature by July 1, 2000, annual interim reports by July 1 of
 11 each succeeding year, and a final cumulative report by December
 12 1, 2014, on all of the following:

13 (1) The use and effectiveness of the subpoena power authorized
 14 by this section in the successful completion of the inspector
 15 general’s duties.

16 (2) Any use of the subpoena power in which the issued subpoena
 17 was quashed, including the basis for the court’s order.

18 (3) Any referral to the local district attorney or the Attorney
 19 General where the district attorney or Attorney General declined
 20 to investigate the matter further or declined to prosecute.

21 (f) This article shall remain in effect only until January 1, 2015,
 22 and as of that date is repealed, unless a later enacted statute, that
 23 is enacted before January 1, 2015, deletes or extends that date.

24 SEC. 50. Chapter 5 (commencing with Section 35900) of Part
 25 21 of Division 3 of Title 2 of the Education Code is repealed.

26 SEC. 51. Section 41003.3 of the Education Code is amended
 27 to read:

28 41003.3. (a) Consistent with the provisions of Article 4
 29 (commencing with Section 17455) of Chapter 4 of Part 10.5 of
 30 Division 1 of Title 1, from July 1, 2008, to June 30, 2010, inclusive,
 31 the Dixon Unified School District may sell surplus real property
 32 previously used as the school farm on Sievers Road, located five
 33 miles outside of the city and which is not feasible for future school
 34 construction, together with any personal property located thereon,
 35 purchased entirely with local funds. The proceeds of the sale shall
 36 be deposited into the general fund of the school district in order
 37 to reestablish a 3-percent reserve. The remainder of the proceeds
 38 from the sale of the property that are not utilized to reestablish the
 39 3-percent reserve shall be deposited into the capital outlay fund
 40 of the school district.

1 (b) In order to expend funds pursuant to subdivision (a), the
2 district shall meet all of the following conditions:

3 (1) The district shall not be eligible for new construction funding
4 for 10 years from the date that funds are deposited into the general
5 fund of the school district pursuant to subdivision (a), except that
6 the district may apply for new construction funds if both of the
7 following conditions are met:

8 (A) At least five years have elapsed since the date upon which
9 the sale was executed pursuant to subdivision (a).

10 (B) The State Allocation Board determines that the district has
11 demonstrated enrollment growth or a need for additional sites or
12 building construction that the district could not have easily
13 anticipated at the time the sale was executed pursuant to
14 subdivision (a).

15 (2) The governing board of the district shall complete a
16 governance training program focusing on fiscal management
17 provided by the County Office Fiscal Crisis and Management
18 Assistance Team (FCMAT).

19 (3) Any remaining funds from the sale of the property shall be
20 exhausted for capital outlay purposes prior to any request for
21 modernization funding.

22 (4) Notwithstanding any other provision of law, the Dixon
23 Unified School District, from July 1, 2008, to June 30, 2010,
24 inclusive, shall not be eligible to receive financial hardship
25 assistance pursuant to Article 8 (commencing with Section
26 17075.10) of Chapter 12.5 of Part 10 of Division 1 of Title 1.

27 (5) The district shall not be eligible to receive hardship funding
28 from the State School Deferred Maintenance Fund pursuant to
29 Section 17587 until all remaining funds from the sale of the
30 property identified in, and pursuant to, subdivision (a) are
31 exhausted for deferred maintenance or capital outlay purposes.

32 (6) The governing board of the district shall certify all of the
33 following to the State Allocation Board:

34 (A) The district has no major deferred maintenance requirements
35 that cannot be completed with existing capital outlay resources.

36 (B) The sale of the real property pursuant to this section does
37 not violate any provisions of a local general obligation bond act.

38 (C) The real property sold pursuant to this section is not suitable
39 to meet any projected school construction need for the next 10
40 years.

1 (7) Before exercising the authority granted by this section, the
 2 governing board of the district, at a regularly scheduled meeting
 3 of that board, shall present a plan for expending one-time resources
 4 pursuant to this section. The plan shall identify the source and use
 5 of the funds, and describe how the proposed use of funds, in
 6 combination with budget reductions, will address the district's
 7 deficit spending and restore the ongoing fiscal solvency of the
 8 district.

9 (8) No later than 10 years after the date of the sale of surplus
 10 property pursuant to subdivision (a), the district shall deposit into
 11 its capital outlay fund an amount equal to the amount of the
 12 proceeds from the sale of the property that is deposited into the
 13 district's general fund as needed to establish the 3-percent reserve
 14 in accordance with subdivision (a).

15 (c) This section shall remain in effect only until January 1, 2021,
 16 and as of that date is repealed, unless a later enacted statute, that
 17 is enacted before January 1, 2021, deletes or extends that date.

18 SEC. 52. Section 42133.5 of the Education Code is amended
 19 to read:

20 42133.5. Regardless of the certification of the budgetary status
 21 of a school district or county office of education under subdivision
 22 (l) of Section 1240 or Section 42131, the proceeds obtained by a
 23 school district from the sources listed in subdivisions (a) to (d),
 24 inclusive, shall not be used for general operating purposes of the
 25 school district.

26 (a) The sale of a saleback or leaseback agreement, or interests
 27 in the agreement.

28 (b) A debt instrument payable from payments under a saleback
 29 or leaseback agreement.

30 (c) Certificates of participation.

31 (d) Other debt instruments that meet both of the following
 32 criteria:

33 (A) They are secured by real property.

34 (B) They do not require the approval of the voters of the school
 35 district.

36 SEC. 53. Section 42238 of the Education Code is amended to
 37 read:

38 42238. (a) For the 1984–85 fiscal year and each fiscal year
 39 thereafter, the county superintendent of schools shall determine a

1 revenue limit for each school district in the county pursuant to this
2 section.

3 (b) The base revenue limit for a fiscal year shall be determined
4 by adding to the base revenue limit for the prior fiscal year the
5 following amounts:

6 (1) The inflation adjustment specified in Section 42238.1.

7 (2) For the 1995–96 fiscal year, the equalization adjustment
8 specified in Section 42238.4.

9 (3) For the 1996–97 fiscal year, the equalization adjustments
10 specified in Sections 42238.41, 42238.42, and 42238.43.

11 (4) For the 1985–86 fiscal year, the amount received per unit
12 of average daily attendance in the 1984–85 fiscal year pursuant to
13 Section 42238.7.

14 (5) For the 1985–86, 1986–87, and 1987–88 fiscal years, the
15 amount per unit of average daily attendance received in the prior
16 fiscal year pursuant to Section 42238.8.

17 (6) For the 2004–05 fiscal year, the equalization adjustment
18 specified in Section 42238.44.

19 (7) For the 2006–07 fiscal year, the equalization adjustment
20 specified in Section 42238.48.

21 (c) Except for districts subject to subdivision (d), the base
22 revenue limit computed pursuant to subdivision (b) shall be
23 multiplied by the district average daily attendance computed
24 pursuant to Section 42238.5.

25 (d) (1) For districts for which the number of units of average
26 daily attendance determined pursuant to Section 42238.5 is greater
27 for the current fiscal year than for the 1982–83 fiscal year, compute
28 the following amount, in lieu of the amount computed pursuant to
29 subdivision (c):

30 (A) Multiply the base revenue limit computed pursuant to
31 subdivision (c) by the average daily attendance computed pursuant
32 to Section 42238.5 for the 1982–83 fiscal year.

33 (B) Multiply the lesser of the amount in subdivision (c) or 1.05
34 times the statewide average base revenue limit per unit of average
35 daily attendance for districts of similar type for the current fiscal
36 year by the difference between the average daily attendance
37 computed pursuant to Section 42238.5 for the current and 1982–83
38 fiscal years.

39 (C) Add the amounts in subparagraphs (A) and (B).

40 (2) This subdivision shall become inoperative on July 1, 1998.

1 (e) For districts electing to compute units of average daily
2 attendance pursuant to paragraph (2) of subdivision (a) of Section
3 42238.5, the amount computed pursuant to Article 4 (commencing
4 with Section 42280) shall be added to the amount computed in
5 subdivision (c) or (d), as appropriate.

6 (f) For the 1984–85 fiscal year only, the county superintendent
7 shall reduce the total revenue limit computed in this section by the
8 amount of the decreased employer contributions to the Public
9 Employees’ Retirement System resulting from enactment of
10 Chapter 330 of the Statutes of 1982, offset by any increase in those
11 contributions, as of the 1983–84 fiscal year, resulting from
12 subsequent changes in employer contribution rates.

13 (g) The reduction required by subdivision (f) shall be calculated
14 as follows:

15 (1) Determine the amount of employer contributions that would
16 have been made in the 1983–84 fiscal year if the applicable Public
17 Employees’ Retirement System employer contribution rate in effect
18 immediately prior to the enactment of Chapter 330 of the Statutes
19 of 1982 was in effect during the 1983–84 fiscal year.

20 (2) Subtract from the amount determined in paragraph (1) the
21 greater of subparagraph (A) or (B):

22 (A) The amount of employer contributions that would have been
23 made in the 1983–84 fiscal year if the applicable Public
24 Employees’ Retirement System employer contribution rate in effect
25 immediately after the enactment of Chapter 330 of the Statutes of
26 1982 was in effect during the 1983–84 fiscal year.

27 (B) The actual amount of employer contributions made to the
28 Public Employees’ Retirement System in the 1983–84 fiscal year.

29 (3) For purposes of this subdivision, employer contributions to
30 the Public Employees’ Retirement System for either of the
31 following shall be excluded from the calculation specified above:

32 (A) Positions supported totally by federal funds that were subject
33 to supplanting restrictions.

34 (B) Positions supported, to the extent of employer contributions
35 not exceeding twenty-five thousand dollars (\$25,000) by any single
36 educational agency, from a revenue source determined on the basis
37 of equity to be properly excludable from the provisions of this
38 subdivision by the Superintendent with the approval of the Director
39 of Finance.

1 (4) For accounting purposes, the reduction made by this
2 subdivision may be reflected as an expenditure from appropriate
3 sources of revenue as directed by the Superintendent.

4 (h) The Superintendent shall apportion to each school district
5 the amount determined in this section less the sum of all of the
6 following:

7 (1) The district's property tax revenue received pursuant to
8 Chapter 3 (commencing with Section 70) and Chapter 6
9 (commencing with Section 95) of Part 0.5 of the Revenue and
10 Taxation Code.

11 (2) The amount, if any, received pursuant to Part 18.5
12 (commencing with Section 38101) of the Revenue and Taxation
13 Code.

14 (3) The amount, if any, received pursuant to Chapter 3
15 (commencing with Section 16140) of the Government Code.

16 (4) Prior years' taxes and taxes on the unsecured roll.

17 (5) Fifty percent of the amount received pursuant to Section
18 41603.

19 (6) The amount, if any, received pursuant to the Community
20 Redevelopment Law (Part 1 (commencing with Section 33000)
21 of Division 24 of the Health and Safety Code), except for any
22 amount received pursuant to Section 33401 or 33676 of the Health
23 and Safety Code that is used for land acquisition, facility
24 construction, reconstruction, or remodeling, or deferred
25 maintenance, and except for any amount received pursuant to
26 Section 33492.15 of, paragraph (4) of subdivision (a) of Section
27 33607.5 of, or Section 33607.7 of the Health and Safety Code that
28 is allocated exclusively for educational facilities.

29 (7) For a unified school district, other than a unified school
30 district that has converted all of its schools to charter status
31 pursuant to Section 47606, the amount of statewide average
32 general-purpose funding per unit of average daily attendance
33 received by school districts for each of four grade level ranges, as
34 computed by the department pursuant to Section 47633, multiplied
35 by the average daily attendance, in corresponding grade level
36 ranges, of any pupils who attend charter schools funded pursuant
37 to Chapter 6 (commencing with Section 47630) of Part 26.8 of
38 Division 4 for which the district is the sponsoring local educational
39 agency, as defined in Section 47632, and who reside in and would

1 otherwise have been eligible to attend a noncharter school of the
2 district.

3 (i) A transfer of seventh and eighth grade pupils between an
4 elementary school district and a high school district shall not result
5 in the receiving district receiving a revenue limit apportionment
6 for those pupils that exceeds 105 percent of the statewide average
7 revenue limit for the type and size of the receiving school district.

8 SEC. 54. Section 48646 of the Education Code is amended to
9 read:

10 48646. (a) The Legislature encourages each county
11 superintendent of schools or governing board of a school district,
12 as determined by the county board of education pursuant to
13 subdivision (b) of Section 48645.2, and the county chief probation
14 officer to enter into a memorandum of understanding or equivalent
15 mutual agreement to support a collaborative process for meeting
16 the needs of wards of the court who are receiving their education
17 in juvenile court schools. The memorandum of understanding or
18 equivalent mutual agreement may include, but is not limited to, a
19 process for communication, decisionmaking, mutually established
20 goals, and conflict resolution. The purpose of this memorandum
21 of understanding or equivalent mutual agreement is to develop a
22 collaborative model that will foster an educational and residential
23 environment that nurtures the whole child and consistently supports
24 services that will meet the educational needs of the pupils.

25 (b) A memorandum of understanding or equivalent mutual
26 agreement on providing educational and related services for
27 juvenile court school pupils developed in accordance with this
28 section may include, but is not limited to, the following provisions:

29 (1) Mutually developed goals and objectives that are reviewed
30 annually, including, but not limited to, the following:

- 31 (A) Building resiliency and strengthening life skills.
- 32 (B) Fostering prosocial attitudes and behaviors.
- 33 (C) Assigning pupils to appropriate classrooms based on their
34 educational needs.
- 35 (D) Ensuring regular classroom attendance.
- 36 (E) Providing clean, safe, and appropriate educational facilities.
- 37 (F) Improving academic achievement and vocational
38 preparation.

39 (2) Clear delineation of responsibilities among the educational
40 and residential or custodial service providers.

1 (3) A process for communicating, collaborating, and resolving
2 conflicts. Whenever possible, resolution of issues shall be reached
3 by consensus through a collaborative process that would promote
4 decisionmaking at the site where services are delivered. A working
5 group charged with this responsibility may be appointed by the
6 county superintendent of schools, or the superintendent of the
7 school district with responsibility for providing juvenile court
8 school services, and the county chief probation officer, or their
9 designees. The working group is responsible for establishing and
10 maintaining open communication, collaboration, and resolution
11 of issues that arise.

12 (4) A clearly identified mechanism for resolving conflicts.

13 (5) A joint process for performing an intake evaluation for each
14 ward to determine educational needs and ability to participate in
15 all educational settings once the ward enters the local juvenile
16 facility. The process shall recognize the limitations on academic
17 evaluation and planning that can result from short-term placements.
18 The evaluation team shall include staff from the responsible
19 educational agency and the county probation department, and may
20 include other participants as appropriate, and as mutually agreed
21 upon by the education and probation members of the team. The
22 evaluation process specified in the memorandum of understanding
23 or equivalent mutual agreement may:

24 (A) Include a timeline for evaluation once a ward is assigned
25 to a local facility.

26 (B) Result in an educational plan for a ward while assigned to
27 a local juvenile facility that is integrated with other rehabilitative
28 and behavioral management programs, and that supports the
29 educational needs of the pupil.

30 It is the intent that this shared information about each ward
31 placed in a juvenile court school shall assist both the county
32 superintendent of schools and the county chief probation officer
33 in meeting the needs of wards in their care and promoting a system
34 of comprehensive services.

35 (c) The memorandum of understanding or equivalent mutual
36 agreement shall not cede responsibility or authority prescribed by
37 statute or regulation from one party to another party unless
38 mutually agreed upon by both parties.

1 SEC. 55. Section 51241 of the Education Code, as amended
2 by Section 3 of Chapter 720 of the Statutes of 2007, is amended
3 to read:

4 51241. (a) The governing board of a school district or the
5 office of the county superintendent of schools of a county may
6 grant a temporary exemption to a pupil from courses in physical
7 education, if the pupil is one of the following:

8 (1) Ill or injured and a modified program to meet the needs of
9 the pupil cannot be provided.

10 (2) Enrolled for one-half, or less, of the work normally required
11 of full-time pupils.

12 (b) (1) The governing board of a school district or the office
13 of the county superintendent of schools of a county, with the
14 consent of a pupil, may grant a pupil an exemption from courses
15 in physical education for two years anytime during grades 10 to
16 12, inclusive, if the pupil has met satisfactorily any five of the six
17 standards of the physical performance test administered in grade
18 9 pursuant to Section 60800.

19 (2) Pursuant to Sections 51210, 51220, and 51222, physical
20 education is required to be offered to all pupils, and, therefore,
21 schools are required to provide adequate facilities and instructional
22 resources for that instruction. In this regard, paragraph (1) shall
23 be implemented in a manner that does not create a new program
24 or impose a higher level of service on a local educational agency.
25 Paragraph (1) does not mandate any overall increase in staffing or
26 instructional time because, pursuant to subdivision (d), pupils are
27 not permitted to attend fewer total hours of class if they do not
28 enroll in physical education. Paragraph (1) does not mandate any
29 new costs because any additional physical education instruction
30 that a local educational agency provides may be accomplished
31 during the existing instructional day, with existing facilities.
32 Paragraph (1) does not prevent a local educational agency from
33 implementing any other temporary or permanent exemption
34 authorized by this section.

35 (c) The governing board of a school district or the office of the
36 county superintendent of a county may grant permanent exemption
37 from courses in physical education if the pupil complies with any
38 one of the following:

39 (1) Is 16 years of age or older and has been enrolled in grade
40 10 for one academic year or longer.

1 (2) Is enrolled as a postgraduate pupil.

2 (3) Is enrolled in a juvenile home, ranch, camp, or forestry camp
3 school where pupils are scheduled for recreation and exercise
4 pursuant to the requirements of Article 24 (commencing with
5 Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare
6 and Institutions Code.

7 (d) A pupil exempted under paragraph (1) of subdivision (b) or
8 paragraph (1) of subdivision (c) shall not attend fewer total hours
9 of courses and classes if he or she elects not to enroll in a physical
10 education course than he or she would have attended if he or she
11 had elected to enroll in a physical education course.

12 (e) Notwithstanding any other law, the governing board of a
13 school district also may administer to pupils in grades 10 to 12,
14 inclusive, the physical performance test required in grade 9
15 pursuant to Section 60800. A pupil who meets satisfactorily any
16 five of the six standards of this physical performance test in any
17 of grades 10 to 12, inclusive, is eligible for an exemption pursuant
18 to subdivision (b).

19 SEC. 56. Section 51241 of the Education Code, as amended
20 by Section 1 of Chapter 32 of the Statutes of 2008, is amended to
21 read:

22 51241. (a) The governing board of a school district or the
23 office of the county superintendent of schools of a county may
24 grant a temporary exemption to a pupil from courses in physical
25 education, if the pupil is one of the following:

26 (1) Ill or injured and a modified program to meet the needs of
27 the pupil cannot be provided.

28 (2) Enrolled for one-half, or less, of the work normally required
29 of full-time pupils.

30 (b) (1) The governing board of a school district or the office
31 of the county superintendent of schools of a county, with the
32 consent of a pupil, may grant a pupil an exemption from courses
33 in physical education for two years anytime during grades 10 to
34 12, inclusive, if the pupil has met satisfactorily at least five of the
35 six standards of the physical performance test administered in
36 grade 9 pursuant to Section 60800.

37 (2) Pursuant to Sections 51210, 51220, and 51222, physical
38 education is required to be offered to all pupils, and, therefore,
39 schools are required to provide adequate facilities and instructional
40 resources for that instruction. In this regard, paragraph (1) shall

1 be implemented in a manner that does not create a new program
 2 or impose a higher level of service on a local educational agency.
 3 Paragraph (1) does not mandate any overall increase in staffing or
 4 instructional time because, pursuant to subdivision (d), pupils are
 5 not permitted to attend fewer total hours of class if they do not
 6 enroll in physical education. Paragraph (1) does not mandate any
 7 new costs because any additional physical education instruction
 8 that a local educational agency provides may be accomplished
 9 during the existing instructional day, with existing facilities.
 10 Paragraph (1) does not prevent a local educational agency from
 11 implementing any other temporary or permanent exemption
 12 authorized by this section.

13 (c) The governing board of a school district or the office of the
 14 county superintendent of a county may grant permanent exemption
 15 from courses in physical education if the pupil complies with any
 16 one of the following:

17 (1) Is 16 years of age or older and has been enrolled in grade
 18 10 for one academic year or longer.

19 (2) Is enrolled as a postgraduate pupil.

20 (3) Is enrolled in a juvenile home, ranch, camp, or forestry camp
 21 school where pupils are scheduled for recreation and exercise
 22 pursuant to the requirements of Article 24 (commencing with
 23 Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare
 24 and Institutions Code.

25 (d) A pupil exempted under paragraph (1) of subdivision (b) or
 26 paragraph (1) of subdivision (c) shall not attend fewer total hours
 27 of courses and classes if he or she elects not to enroll in a physical
 28 education course than he or she would have attended if he or she
 29 had elected to enroll in a physical education course.

30 (e) Notwithstanding any other law, the governing board of a
 31 school district also may administer to pupils in grades 10 to 12,
 32 inclusive, the physical performance test required in grade 9
 33 pursuant to Section 60800. A pupil who meets satisfactorily at
 34 least five of the six standards of this physical performance test in
 35 any of grades 10 to 12, inclusive, is eligible for an exemption
 36 pursuant to subdivision (b).

37 SEC. 57. Section 52055.650 of the Education Code is amended
 38 to read:

39 52055.650. (a) Section 52055.5 does not apply to a school
 40 participating in the High Priority Schools Grant Program.

1 (b) Twenty-four months after receipt of funding for
2 implementation of the action plan pursuant to Sections 52054.5
3 and 52055.600, a school that has not met its growth targets each
4 year shall be subject to review by the state board. This review shall
5 include an examination of the school’s progress relative to the
6 components and reports made pursuant to Section 52055.640. The
7 Superintendent, with the approval of the state board, may direct
8 that the governing board of a school district take appropriate action
9 and adopt appropriate strategies to provide corrective assistance
10 to the school in order to achieve the components and benchmarks
11 established in the school’s action plan.

12 (c) Thirty-six months after receipt of funding to implement a
13 school action plan, a school that has met or exceeded its growth
14 target each year shall receive a monetary or nonmonetary award,
15 under the Governor’s Performance Award Program, as set forth
16 in Section 52057. Funds received pursuant to that section may be
17 used at the school’s discretion.

18 (d) Notwithstanding subdivisions (e) and (f), 36 months after
19 the receipt of funding to implement a school action plan, all schools
20 that are not subject to state monitoring are eligible for a fourth
21 year of the funding specified in Section 52055.600.

22 (e) (1) Thirty-six months after receipt of funding pursuant to
23 Section 52053 or 52055.600, and anytime thereafter, a school for
24 which the most recent base Academic Performance Index (API)
25 places the school in decile 6, 7, 8, 9, or 10 shall exit the grant
26 program.

27 (2) Thirty-six months after receipt of implementation funding
28 for the federal Comprehensive School Reform Program (20 U.S.C.
29 Sec. 6511 et seq.), and anytime thereafter, a school receiving
30 funding pursuant to Section 52053 or 52055.600 in the 2005–06
31 fiscal year for which the most recent base API places the school
32 in decile 6, 7, 8, 9, or 10 shall exit the grant program.

33 (f) (1) A school that achieves positive growth in each year of
34 the last three years of program implementation and achieves growth
35 targets in two of those years shall exit the grant program.

36 (2) A school that receives implementation funding for the federal
37 program beginning in the 2004–05 fiscal year and subsequently
38 receives funding pursuant to subdivision (c) of Section 52055.600
39 in the 2006–07 fiscal year shall exit the grant program if it achieves

1 positive growth in each year of the last three years of program
2 implementation and achieves growth targets in two of those years.

3 (g) For schools receiving implementation funding pursuant to
4 Section 52055.600, 36 months after receipt of initial funding for
5 either the federal program or the grant program, a school that has
6 not met its growth targets but has shown significant growth as
7 determined by the state board, shall continue to be monitored by
8 the Superintendent until it exits the grant program pursuant to
9 subdivision (e) or (f) or is deemed state monitored pursuant to
10 subdivision (h).

11 (h) Thirty-six months after receipt of initial implementation
12 funding for the grant program or the federal program, a school that
13 receives funding pursuant to Section 52055.600, does not meet its
14 growth targets within the periods described in subdivision (c), and
15 has failed to show significant growth, as determined by the state
16 board, shall be deemed a state-monitored school, and,
17 notwithstanding any other law, the Superintendent, with the
18 approval of the state board, shall follow the course of action
19 prescribed by paragraph (1) or (2) with respect to that school.

20 (1) Notwithstanding any other law, the Superintendent, with
21 the approval of the state board, shall require the district to enter
22 into a contract with a school assistance and intervention team no
23 later than 30 days after the public release of the school's growth
24 in API results or the next regularly scheduled meeting of the state
25 board following the expiration of the 30 days, if meeting the 30-day
26 time limit would not provide the state board with sufficient time
27 to comply with the requirements of the Bagley-Keene Open
28 Meeting Act (Article 9 (commencing with Section 11120) of
29 Chapter 1 of Division 3 of Title 2 of the Government Code). With
30 the approval of the state board, the governing board of the school
31 district may retain its legal rights, duties, and responsibilities with
32 respect to that school.

33 (A) Team members should possess a high degree of knowledge
34 and skills in the areas of school leadership, curriculum, and
35 instruction aligned to state academic content and performance
36 standards, classroom management and discipline, academic
37 assessment, parent-school relations, and evaluation- and
38 research-based reform strategies, and have proven successful
39 expertise specific to the challenges inherent in high-priority
40 schools.

1 (B) The team shall provide intensive support and expertise to
2 implement the school reform initiatives in the plan. Decisions
3 about interventions shall be data driven. A school assistance and
4 intervention team shall work with school staff, site planning teams,
5 administrators, and district staff to improve pupil literacy and
6 achievement by assessing the degree of implementation of the
7 current action plan, refining and revising the action plan, and
8 making recommendations to maximize the use of fiscal resources
9 and personnel in achieving the goals of the plan. The district shall
10 provide support and assistance to enhance the work of the team at
11 the targeted schoolsites.

12 (C) (i) Not later than 60 days after the assignment of the school
13 assistance and intervention team, the team shall complete an initial
14 report. The report shall include recommendations for corrective
15 actions chosen from a range of interventions, including the
16 reallocation of school district fiscal resources to ensure that
17 appropriate resources are targeted to those specific interventions
18 identified in the recommendations of the team for the targeted
19 schools and other changes deemed appropriate to make progress
20 toward meeting the school's growth target.

21 (ii) Not later than 90 days after the assignment of the school
22 assistance and intervention team, the governing board of the school
23 district shall adopt the team's recommendations at a regularly
24 scheduled meeting of the governing board. Any subsequent
25 recommendations proposed by the school assistance and
26 intervention team shall be submitted to the governing board and
27 shall be adopted by the governing board within 30 days of the
28 submission. The governing board may not place the adoption on
29 the consent calendar.

30 (iii) The report shall be submitted to the Superintendent and the
31 state board.

32 (D) Following the governing board's adoption of the
33 recommendations, the governing board may submit an appeal to
34 the Superintendent for relief from one or more of the
35 recommendations. The Superintendent, with approval of the state
36 board, may grant relief from compliance with any of the school
37 assistance and intervention team recommendations.

38 (E) If a school assistance and intervention team does not fulfill
39 its legal obligations under this section or Section 52055.51, the
40 governing board of the school district may seek permission from

1 the Superintendent, with the approval of the state board, to contract
2 with a different school assistance and intervention team. Upon
3 finding that the school assistance and intervention team has not
4 fulfilled its legal obligations under this section, the Superintendent,
5 with the approval of the state board, may remove the school
6 assistance and intervention team from the state list of eligible
7 providers.

8 (F) A school assistance and intervention team assigned to a
9 school pursuant to Section 52055.51 or this section may seek
10 permission from the Superintendent, with the approval of the state
11 board, to terminate its contract with a state-monitored school if
12 the school is failing to implement the recommendations listed in
13 the report of findings and corrective actions. The Superintendent,
14 with approval of the state board, may grant permission to the school
15 assistance and intervention team to terminate its contract with the
16 state-monitored school if the Superintendent determines that the
17 school is not implementing the identified corrective actions.

18 (G) No fewer than three times during the year, the school district
19 and schoolsite shall present the team with data regarding progress
20 toward the goals established by the team's initial assessment. The
21 data shall be presented to the governing board of the school district
22 at a regularly scheduled meeting. The team, to the extent possible,
23 shall utilize existing site data. The data also shall be provided to
24 the Superintendent and the state board. Every effort shall be made
25 to report this data in a manner that minimizes the length and
26 complexity of the reporting requirement in order to maximize the
27 focus on improving pupil literacy and achievement.

28 (H) An action taken pursuant to this paragraph shall not increase
29 local costs or require reimbursement by the Commission on State
30 Mandates.

31 (2) The Superintendent shall assume all the legal rights, duties,
32 and powers of the governing board with respect to the school. The
33 Superintendent, in consultation with the state board and the
34 governing board of the school district, shall reassign the principal
35 of that school subject to the findings in paragraph (2) of subdivision
36 (q). In addition to reassigning the principal, the Superintendent,
37 in consultation with the state board, and notwithstanding any other
38 provision of law, shall do at least one of the following:

39 (A) Revise attendance options for pupils to allow them to attend
40 any public school in which space is available. If an additional

1 attendance option is made available, this option may not require
2 either the sending or receiving school district to incur additional
3 transportation costs.

4 (B) Allow parents or guardians to apply directly to the state
5 board for the establishment of a charter school and allow parents
6 or guardians to establish the charter school at the existing
7 schoolsite.

8 (C) Under the supervision of the Superintendent, assign the
9 management of the school to a college, university, county office
10 of education, or other appropriate educational institution. The
11 entity chosen to assume management of the school shall possess
12 the qualifications specified in subparagraph (A) of paragraph (1).
13 The involvement of the school district during the sanctions process
14 shall be established by contract. The costs of the entity to manage
15 the school shall be established by contract and shall be paid by the
16 school district. However, the Superintendent may not assume the
17 management of the school.

18 (D) Reassign other certificated employees of the school.

19 (E) Renegotiate a new collective bargaining agreement at the
20 expiration of the existing collective bargaining agreement.

21 (F) Reorganize the school.

22 (G) Close the school.

23 (H) Place a trustee at the school, for a period not to exceed three
24 years, who shall monitor and review the operation of the school.
25 The trustee shall possess the qualifications specified in
26 subparagraph (A) of paragraph (1), shall compile an initial report
27 in accordance with the requirements of subparagraph (C) of
28 paragraph (1), and shall receive reports from the school district
29 and schoolsite no less than three times during the year on the
30 progress towards meeting the goals established in the initial report.
31 During the period of his or her service, the trustee may stay or
32 rescind those actions of the governing board of the school district
33 or schoolsite principal that, in the judgment of the trustee, may
34 detrimentally affect the conditions of the state-monitored school
35 to which the trustee is assigned. The salary and benefits of the
36 trustee shall be established by the Superintendent, in consultation
37 with the state board, and shall be paid by the school district.

38 (I) For the purposes of this section, in order to facilitate the
39 appointment of the trustee and the employment of any necessary
40 staff, the Superintendent is exempt from the requirements of Article

1 6 (commencing with Section 999) of Chapter 6 of Division 4 of
2 the Military and Veterans Code and Part 2 (commencing with
3 Section 10100) of the Public Contract Code.

4 (J) Notwithstanding any other provision of law, if the
5 Superintendent appoints an employee of the department to act as
6 trustee pursuant to this section, the salary and benefits of that
7 employee shall be established by the Superintendent and paid by
8 the school district. During the time of appointment, the employee
9 is an employee of the school district, but shall remain in the same
10 retirement system and under the same plan as if the employee had
11 remained in the department. Upon the expiration or termination
12 of the appointment, the employee shall have the right to return to
13 his or her former position, or to a position at substantially the same
14 level as that position, with the department. The time served in the
15 appointment shall be counted for all purposes as if the employee
16 had served that time in his or her former position with the
17 department.

18 (i) When a school is deemed to be a state-monitored school, the
19 governing board of the school district, at a regularly scheduled
20 public meeting, shall inform the parents and guardians of pupils
21 enrolled at the schoolsite that the school is a state-monitored school
22 and that as a result of this determination the corrective actions set
23 forth in subdivision (h) may occur.

24 (j) In addition to the actions taken pursuant to subdivision (h),
25 the governing board of the school district and the district
26 superintendent shall be included in discussions regarding the
27 governance of the state-monitored schoolsite and the actions that
28 shall be taken in order for the schoolsite to succeed. During the
29 discussions, the participants shall delineate clearly the role that
30 the governing board of the school district and the district
31 superintendent will play during the sanctions period and shall
32 report this delineation to the Superintendent. The role to be played
33 by the governing board of the school district and the district
34 superintendent as delineated during the discussions regarding the
35 governance of the state-monitored schoolsite shall be in addition
36 to those actions set forth in subdivision (h).

37 (k) After a school is deemed to be a state-monitored school
38 pursuant to subdivision (h), the governing board of the school
39 district shall do all of the following:

1 (1) Make the same fiscal, human, and educational resources, at
2 a minimum, available to the schoolsite as were available before
3 the action taken pursuant to subdivision (h), excluding state or
4 federal funding provided pursuant to Sections 52054.5 and
5 52055.600. If the total amount of resources available to the school
6 district differs from one year to another, it shall make the same
7 proportion of resources available to the schoolsite as was available
8 before the action taken pursuant to subdivision (h).

9 (A) The entity selected to manage a school pursuant to
10 subparagraph (C) of paragraph (2) of subdivision (h) shall review
11 the resources allocated to the schoolsite and determine if additional
12 resources should be made available from district funds to
13 reasonably support the schoolsite without detriment to the other
14 schools and pupils of the district.

15 (B) If the school does not have a management team pursuant to
16 subparagraph (C) of paragraph (2) of subdivision (h), the
17 Superintendent, in consultation with the state board, shall designate
18 an entity to review the resources allocated to the schoolsite and
19 determine if additional resources should be made available from
20 district funds to reasonably support the schoolsite without detriment
21 to the other schools and pupils of the district.

22 (C) If the entity selected to manage a school pursuant to
23 subparagraph (C) or (H) of paragraph (2) of subdivision (h) or the
24 entity chosen by the Superintendent pursuant to paragraph (1) of
25 subdivision (h) is unable to obtain the information necessary to
26 make this determination, the entity may request that the
27 Superintendent and state board intervene to obtain the necessary
28 documents.

29 (D) Any dispute between the entity selected to manage a school
30 pursuant to subparagraph (C) or (H) of paragraph (2) of subdivision
31 (h) or the entity chosen by the Superintendent pursuant to paragraph
32 (1) of subdivision (h) and the school district over resource
33 allocations shall be resolved by the Superintendent, in consultation
34 with the state board.

35 (2) Continue its current ownership status with respect to the
36 schoolsite.

37 (3) Continue to provide the same insurance coverage as before
38 the action taken pursuant to subdivision (b) with respect to
39 property, liability, errors and omissions, and other regularly
40 provided policies.

1 (4) Name the Superintendent and the department as additional
2 insureds upon transfer of legal rights, duties, and responsibilities
3 to the Superintendent.

4 (5) Continue to provide facilities support, including
5 maintenance, if appropriate to the management arrangement, and
6 full schoolsite participation in bond financing.

7 (6) Remain involved with the school throughout the sanctions
8 period.

9 (l) If the state board approves, the governing board of the school
10 district may retain its legal rights, duties, and responsibilities with
11 respect to that school.

12 (m) A school deemed state monitored pursuant to subdivision
13 (h) that achieves significant growth, as determined by the state
14 board, after it has undergone state monitoring for two consecutive
15 API reporting cycles shall exit state monitoring, as defined in
16 subdivision (g). A school shall exit the program if it meets the
17 requirements specified in subdivision (e) or (f).

18 (n) Thirty-six months after the Superintendent assigns a
19 management team, trustee, or a school assistance and intervention
20 team to a schoolsite, if the management team, trustee, or school
21 assistance and intervention team fails to assist the school in making
22 significant growth on the API, as determined by the state board,
23 the Superintendent shall remove the management team, trustee,
24 or school assistance and intervention team from providing services
25 at the schoolsite. Additionally, the Superintendent shall do at least
26 one of the following:

27 (1) Require the school district to ensure, using available federal
28 funds, that 100 percent of the teachers at the schoolsite are highly
29 qualified, as defined by the state for the purposes of the federal
30 No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

31 (2) (A) Require the school district to contract, using available
32 federal, state, and local funds, with an outside entity to provide
33 supplemental instruction to high-priority pupils and assign a
34 management team, trustee, or school assistance and intervention
35 team that has demonstrated success with other state-monitored
36 schools. During the period of his or her service, the trustee may
37 stay or rescind those actions of the governing board of the school
38 district or principal that, in the judgment of the trustee,
39 detrimentally may affect the conditions of the state-monitored
40 school to which the trustee is assigned.

1 (B) For the purposes of this section, in order to facilitate the
2 appointment of the trustee and the employment of any necessary
3 staff, the Superintendent is exempt from the requirements of Article
4 6 (commencing with Section 999) of Chapter 6 of Division 4 of
5 the Military and Veterans Code and Part 2 (commencing with
6 Section 10100) of the Public Contract Code.

7 (C) Notwithstanding any other provision of law, if the
8 Superintendent appoints an employee of the department to act as
9 trustee pursuant to this section, the salary and benefits of that
10 employee shall be established by the Superintendent and paid by
11 the school district. During the time of appointment, the employee
12 is an employee of the school district, but shall remain in the same
13 retirement system and under the same plan as if the employee had
14 remained in the department. Upon the expiration or termination
15 of the appointment, the employee shall have the right to return to
16 his or her former position, or to a position at substantially the same
17 level as that position, with the department. The time served in the
18 appointment shall be counted for all purposes as if the employee
19 had served that time in his or her former position with the
20 department.

21 (D) Following the assignment of a management team, trustee,
22 or school assistance and intervention team pursuant to this
23 subdivision, if the school makes significant growth on the API, as
24 determined by the state board, in two API reporting cycles, the
25 school shall exit the Immediate Intervention/Underperforming
26 Schools Program and is no longer subject to the requirements of
27 the program.

28 (3) Allow parents of pupils enrolled at the school to apply
29 directly to the state board to establish a charter school at the
30 existing schoolsite.

31 (4) Close the school.

32 (o) If a school assistance and intervention team does not fulfill
33 its legal obligations under this section, the governing board of the
34 school district may seek permission from the Superintendent, with
35 the approval of the state board, to contract with a different school
36 assistance and intervention team. Upon a finding that the school
37 assistance and intervention team has not fulfilled its legal
38 obligations under this section, the Superintendent, with the approval
39 of the state board, may remove the school assistance and
40 intervention team from the state list of eligible providers.

1 (p) In addition to the actions listed in subdivision (h), the
2 Superintendent, in consultation with the state board, may take any
3 other action considered necessary or desirable against the school
4 district or the school district governing board, including
5 appointment of a new superintendent or suspension of the authority
6 of the governing board with respect to a school that does not meet
7 its growth targets within the periods described in subdivision (c),
8 and has failed to show significant growth, as determined by the
9 state board.

10 (q) Before the Superintendent may take any action against a
11 principal pursuant to subdivision (h), the Superintendent or a
12 designee of the Superintendent, which may be a panel consisting
13 of the county superintendent of schools of the county in which the
14 school is located or an adjoining county, one principal with
15 experience in a similar type of school, and the superintendent of
16 the school district in which the state-monitored school is located,
17 shall do the following:

18 (1) Hold an informal hearing to determine whether there are
19 sufficient issues to proceed to a formal hearing. The informal
20 hearing shall be held in a closed session. The principal, and his or
21 her representative, and a school district representative may be
22 present at the informal hearing. The decision on whether to proceed
23 to a formal hearing shall be posted and presented at a regularly
24 scheduled public meeting of the governing board of the school
25 district. If the decision is not to proceed to a formal hearing, the
26 posting and presentation shall explain the rationale for this decision.
27 This item may not be a consent item on the agenda.

28 (2) Hold a formal hearing on the matter in the school district.
29 Evidence to support the findings made at the formal hearing shall
30 be presented and discussed in a closed session. The principal, or
31 his or her representative, and a school district representative may
32 be present in the closed session. The findings shall be posted and
33 presented at a regularly scheduled public meeting of the governing
34 board of the school district. This item may not be a consent item
35 on the agenda. The governing board shall give adequate time for
36 public input and response to findings. The purpose of the hearing
37 shall be to make both of the following findings:

38 (A) Whether the principal had the authority to take specific
39 enumerated actions that would have helped the school meet its
40 performance goals.

1 (B) Whether the principal failed to take specific enumerated
2 actions pursuant to subparagraph (A).

3 (r) An action taken pursuant to subdivision (h), (i), (j), or (k)
4 shall not increase local costs or require reimbursement by the
5 Commission on State Mandates.

6 (s) An action taken pursuant to subdivision (h), (i), (j), or (k)
7 shall be accompanied by specific findings by the Superintendent
8 and the state board that the action is directly related to the identified
9 causes for continued failure by a school to meet its performance
10 goals.

11 (t) (1) Notwithstanding subdivision (a), a school participating
12 in the grant program that received a planning grant pursuant to
13 subdivision (f) of Section 52053 in the 1999–2000 fiscal year is
14 eligible to receive funding pursuant to Section 52055.600 in the
15 2002–03 fiscal year only.

16 (2) Notwithstanding subdivision (a), a school participating in
17 the grant program that received a planning grant pursuant to
18 subdivision (l) of Section 52053 in the 2000–01 fiscal year is
19 eligible to receive funding pursuant to Section 52055.600 in the
20 2002–03 and 2003–04 fiscal years only.

21 (3) Notwithstanding subdivision (a), a school participating in
22 the grant program that received a planning grant pursuant to
23 subdivision (l) of Section 52053 in the 2001–02 fiscal year is
24 eligible to receive funding pursuant to Section 52055.600 in only
25 the 2002–03, 2003–04, and 2004–05 fiscal years.

26 (u) Notwithstanding the growth target timelines set forth in
27 subdivisions (b), (c), (e), and (f), a school that receives funds
28 pursuant to Section 52055.600 during the 2002–03 or 2003–04
29 fiscal year shall meet the growth target specified in subdivision
30 (b) no later than December 31, 2004, and the growth target
31 specified in subdivisions (c), (e), and (f) no later than December
32 31, 2005.

33 (v) Notwithstanding the growth target timelines set forth in
34 subdivisions (b), (c), (e), and (f), a school that receives funds
35 pursuant to Section 52055.600 during the 2005–06 or 2006–07
36 fiscal year shall meet the growth target specified in subdivision
37 (b) no later than December 31, 2009, and the growth target
38 specified in subdivisions (c), (e), and (f) no later than December
39 31, 2010.

1 (w) Thirty-six months after allocating funding under subdivision
2 (d) of Section 52055.600, the Superintendent shall provide the
3 state board and the Legislature with recommendations regarding
4 necessary modifications of the Education Code and procedures
5 specific to the programs funded under subdivision (d) of Section
6 52055.600.

7 SEC. 58. Section 54712 of the Education Code is amended to
8 read:

9 54712. The Superintendent shall perform the following
10 responsibilities:

11 (a) Identify schools as College Opportunity Zones.

12 (b) Develop the “Save Me a Spot in College” pledge, which
13 shall include the commitments made by the pupil and the major
14 postsecondary and financial aid opportunities provided by the state.
15 The pledge shall contain all of the following assurances:

16 (1) A pupil who signs the pledge and enrolls in the Early
17 Commitment to College program, in the same manner as all other
18 pupils, shall be eligible to continue his or her postsecondary
19 education at a campus of the California Community Colleges to
20 pursue career technical education or an associate degree, or to
21 prepare for transfer to a four-year college or university, or, if he
22 or she meets the admission requirements and applies for admission,
23 at the University of California or the California State University.

24 (2) A pupil who signs the pledge and meets all the eligibility
25 requirements of the Cal Grant Program (Article 3 (commencing
26 with Section 69530) of Chapter 2 of Part 42 of Division 5 of Title
27 3) at the time of application shall be eligible to receive a Cal Grant
28 award.

29 (3) In a manner that is consistent with Article 1 (commencing
30 with Section 76300) of Chapter 2 of Part 47 of Division 7 of Title
31 3, a pupil who signs the pledge shall receive, upon enrollment at
32 a community college, a fee waiver under the fee waiver program
33 of the Board of Governors of the California Community Colleges
34 for two or more years of enrollment at a campus of the California
35 Community Colleges, as long as the student is a California resident
36 and continues to show financial need on a completed Free
37 Application for Federal Student Aid.

38 (c) Consult with the California Community Colleges, the
39 University of California, the California State University, the
40 Student Aid Commission, and independent colleges and universities

1 in developing the pledge, letter, and supporting materials, including
2 a method for participating school districts to notify colleges and
3 universities in their service area that the school district is
4 participating in the program and seeking partnerships with colleges,
5 universities, and others to plan and conduct activities to implement
6 the program.

7 (d) Determine the form of recognition for pupils who have been
8 certified by his or her school district as having fulfilled the
9 requirements of the pledge pursuant to subdivision (b) of Section
10 54711.

11 (e) Develop a method by which participating schools shall record
12 and report participation in, and outcome data of, the Early
13 Commitment to College program to the Superintendent pursuant
14 to subdivision (b) of Section 54711.

15 (f) (1) Develop a letter addressed to pupils enrolled in grades
16 6 to 9, inclusive, and their parents or guardians, and signed by the
17 Superintendent and the superintendent of the school district that
18 describes the major steps to prepare for college, including
19 postsecondary career technical education, and the major
20 postsecondary and financial aid opportunities available to students
21 in California.

22 (2) Develop a second letter signed by the Superintendent and
23 the superintendent of the school district, to be directed to pupils
24 eligible to sign the pledge pursuant to Section 54711, and their
25 parents or guardians, that details the Early Commitment to College
26 program, including the pledge, in addition to the information in
27 the letter directed to all pupils in grades 6 to 9, inclusive.

28 (3) Make both letters and information on the Early Commitment
29 to College program available on the Internet Web site of the
30 department and request all school districts to distribute the letters
31 as appropriate through existing means to all pupils and their
32 parents.

33 SEC. 59. Section 60200.1 of the Education Code is amended
34 to read:

35 60200.1. (a) (1) The instructional materials described in
36 paragraph (1) of subdivision (a) of Section 60200 shall be
37 submitted to the state board for adoption in 2008.

38 (2) The instructional materials for foreign languages shall be
39 submitted to the state board for adoption in 2012.

1 (3) The instructional materials for health shall be submitted to
2 the state board for adoption in 2013.

3 (b) Notwithstanding any other provision of law, the requirement
4 in paragraph (6) of subdivision (c) of Section 60200 that other
5 criteria be approved at least 30 months before the date that the
6 materials are to be approved for adoption shall not apply if all of
7 the following conditions are met:

8 (1) The criteria adopted are consistent with the content standards
9 adopted by the state board in each of the four core content areas
10 for which standards are adopted.

11 (2) The schedule for the adoption of instructional materials
12 requires instructional materials for history-social science to be
13 adopted in November 2011, and instructional materials for science
14 to be adopted by November 2012.

15 (3) The state board approves criteria for the adoption of
16 instructional materials in history-social science at least 18 months
17 before the state board adopts instructional materials in
18 history-social science.

19 (4) The state board approves the criteria for the adoption of
20 instructional materials for science at least 24 months before the
21 state board adopts instructional materials in science.

22 SEC. 60. Section 66269 of the Education Code is amended
23 and renumbered to read:

24 66260.6. "Disability, gender, nationality, race or ethnicity,
25 religion, sexual orientation, or any other characteristic contained
26 in the definition of hate crimes set forth in Section 422.55 of the
27 Penal Code" includes a perception that the person has any of those
28 characteristics or that the person is associated with a person who
29 has, or is perceived to have, any of those characteristics.

30 SEC. 61. Section 69613 of the Education Code is amended to
31 read:

32 69613. (a) Program participants shall meet all of the following
33 eligibility criteria prior to selection in the program and shall
34 continue to meet these criteria, as appropriate, during the payment
35 periods:

36 (1) The applicant has completed at least 60 semester units, or
37 the equivalent, and is enrolled in an academic program leading to
38 a baccalaureate degree at an eligible institution, has agreed to
39 participate in a teacher internship program, or has been admitted

1 to a program of professional preparation that has been approved
2 by the Commission on Teacher Credentialing.

3 (2) The applicant is currently enrolled in, or has been admitted
4 to, a program in which he or she will be enrolled on at least a
5 half-time basis, as determined by the participating institution. The
6 applicant shall agree to maintain satisfactory academic progress
7 and a minimum of half-time enrollment, as defined by the
8 participating eligible institution.

9 (A) Except as provided in subparagraphs (B) and (C), if a person
10 participating in the program fails to maintain at least half-time
11 enrollment, as required by this article, under the terms of the
12 agreement pursuant to paragraph (2), the loan assumption
13 agreement shall be invalidated and the participant shall assume
14 full liability for all student loan obligations. This subparagraph
15 shall not apply if the participant is in his or her final semester or
16 quarter in school and has no additional coursework required to
17 obtain his or her teaching credential.

18 (B) Notwithstanding subparagraph (A), if a program participant
19 is unable to maintain at least half-time enrollment due to serious
20 illness, pregnancy, or other natural causes, or is called to active
21 military duty status, the participant is not required to assume full
22 liability for the student loan obligation for a period not to exceed
23 one calendar year, unless approved by the commission for a longer
24 period.

25 (C) If a natural disaster prevents a program participant from
26 maintaining at least half-time enrollment due to the interruption
27 of instruction at the eligible institution, the term of the loan
28 assumption agreement shall be extended for a period not to exceed
29 one calendar year, unless approved by the commission for a longer
30 period.

31 (3) The applicant has been judged by his or her postsecondary
32 institution, school district, or county office of education to have
33 outstanding ability on the basis of criteria that may include, but
34 need not be limited to, any of the following:

35 (A) Grade point average.

36 (B) Test scores.

37 (C) Faculty evaluations.

38 (D) Interviews.

39 (E) Other recommendations.

1 (4) The applicant has received, or is approved to receive, a loan
2 under one or more of the following designated loan programs:
3 (A) The Federal Family Education Loan Program (20 U.S.C.
4 Sec. 1071 et seq.).
5 (B) Any educational loan program approved by the Student Aid
6 Commission.
7 (5) The applicant has agreed to teach full time for at least four
8 consecutive academic years, or on a part-time basis for the
9 equivalent of four full-time academic years, after obtaining a
10 teaching credential in a public elementary or secondary school in
11 this state, in a subject area that is designated as a current or
12 projected shortage area by the Superintendent of Public Instruction,
13 or, on the date the teacher is hired, at an eligible school.
14 (b) An agreement shall remain valid even if the subject area
15 under which an applicant becomes eligible to enter into an
16 agreement ceases to be a designated shortage field by the time the
17 applicant becomes a teacher.
18 (c) For the purposes of calculating eligible years of teaching for
19 the redemption of an award, the designation by the Superintendent
20 of Public Instruction of a newly opened school pursuant to Section
21 52056 shall apply retroactively from the date the school first
22 opened.
23 (d) A person participating in the program pursuant to this section
24 shall not enter into more than one agreement.
25 (e) A person participating in the program pursuant to this section
26 shall not owe a refund on any state or federal educational grant or
27 defaulted on any student loan.
28 (f) Notwithstanding any other provision of this section, a
29 credentialed teacher teaching in a public school ranked in the
30 lowest two deciles on the Academic Performance Index pursuant
31 to Section 52052 who possesses a clear multiple subject or single
32 subject teaching credential or level II education specialist credential
33 and who has not otherwise participated in the program established
34 by this article is eligible to enter into an agreement for loan
35 assumption pursuant to this article. The number of loan assumption
36 agreements provided pursuant to this subdivision shall not exceed
37 400 per year. The commission shall develop and adopt regulations
38 for the implementation of this subdivision by January 1, 2010.
39 SEC. 62. Section 69662 of the Education Code is amended to
40 read:

1 69662. (a) Any person enrolled in an eligible institution may
2 be eligible to enter into an agreement for loan assumption to be
3 redeemed pursuant to Section 69665 upon becoming employed as
4 a licensed physician assistant.

5 (b) In order to be eligible to enter into an agreement for loan
6 assumption, an applicant shall satisfy all of the following
7 conditions:

8 (1) The applicant is enrolled in or admitted to a physician
9 assistant program at an eligible institution.

10 (2) The applicant is currently enrolled in a program, or has been
11 admitted to a program in which he or she will be enrolled, on at
12 least a half-time basis, as determined by the eligible institution.
13 The applicant shall agree to maintain satisfactory academic
14 progress and a minimum of half-time enrollment, as defined by
15 the participating eligible institution.

16 (A) Except as provided in subparagraph (B), if a program
17 participant fails to maintain half-time enrollment as required by
18 this article and, under the terms of the agreement pursuant to this
19 paragraph, the loan assumption agreement shall be deemed invalid.
20 The participant is excused from the half-time enrollment
21 requirement if he or she is in his or her final term in school and
22 has no additional coursework required to become a physician
23 assistant.

24 (B) Notwithstanding subparagraph (A), a program participant
25 shall be excused from the half-time enrollment requirement for a
26 period not to exceed one calendar year, unless approved by the
27 commission for a longer period, if a program participant becomes
28 unable to maintain half-time enrollment due to any of the
29 following:

30 (i) Serious illness, pregnancy, or other natural causes.

31 (ii) The participant is called to military active duty status.

32 (iii) A natural disaster prevents a program participant from
33 maintaining half-time enrollment due to the interruption of
34 instruction at the eligible institution.

35 (3) The person has submitted an application to participate in
36 the program and has been recommended by his or her
37 postsecondary institution to have outstanding ability on the basis
38 of criteria that may include, but need not be limited to, any of the
39 following:

40 (A) Grade point average.

- 1 (B) Test scores.
- 2 (C) Faculty evaluations.
- 3 (D) Interviews.
- 4 (E) Other recommendations.

5 (4) The applicant has received, or is approved to receive, a loan
 6 under one or more of the following designated loan programs:

7 (A) The Federal Family Education Loan Program (20 U.S.C.
 8 Sec. 1071 et seq.).

9 (B) Any educational loan program approved by the Student Aid
 10 Commission.

11 (5) The applicant has agreed to work full time for at least four
 12 consecutive years, or on a part-time basis for the equivalent of four
 13 full-time years, as a physician assistant in this state and in a
 14 designated medically underserved area.

15 (c) The agreements entered into each year pursuant to
 16 subdivision (b) shall be with applicants who need to complete
 17 training or coursework in order to become a licensed physician
 18 assistant and agree to practice at a site located in an area of the
 19 state where unmet priority needs exist for primary care family
 20 physicians, as determined by the California Healthcare Workforce
 21 Policy Commission. An agreement shall remain valid even if the
 22 primary medical care facilities at which the applicant is employed
 23 ceases to be listed as a medically underserved area after the
 24 applicant is employed there.

25 (d) A person participating in the program pursuant to this article
 26 shall not enter into more than one agreement under this article.

27 SEC. 63. The heading of Article 14 (commencing with Section
 28 69785) of Chapter 2 of Part 42 of Division 5 of Title 3 of the
 29 Education Code is amended to read:

30
 31 Article 14. Military and Veterans Offices
 32

33 SEC. 64. Section 9604 of the Elections Code is amended to
 34 read:

35 9604. (a) Notwithstanding any other provision of law, any
 36 person may engage in good faith bargaining between competing
 37 interests to secure legislative approval of matters embraced in a
 38 statewide or local initiative or referendum measure, and the
 39 proponents may, as a result of these negotiations, withdraw the

1 measure at any time before filing the petition with the appropriate
2 elections official.

3 (b) Withdrawal of a statewide initiative or referendum measure
4 shall be effective upon receipt by the Secretary of State of a written
5 notice of withdrawal, signed by all proponents of the measure.

6 (c) Withdrawal of a local initiative or referendum measure shall
7 be effective upon receipt by the appropriate local elections official
8 of a written notice of withdrawal, signed by all proponents of the
9 measure.

10 SEC. 65. Section 10704 of the Elections Code is amended to
11 read:

12 10704. (a) Except as provided in subdivision (b), a special
13 primary election shall be held in the district in which the vacancy
14 occurred on the eighth Tuesday or, if the eighth Tuesday is the
15 day of or the day following a state holiday, the ninth Tuesday
16 preceding the day of the special general election at which the
17 vacancy is to be filled. Candidates at the primary election shall be
18 nominated in the manner set forth in Chapter 1 (commencing with
19 Section 8000) of Part 1 of Division 8, except that nomination
20 papers shall not be circulated more than 63 days before the primary
21 election, shall be left with the county elections official for
22 examination not less than 43 days before the primary election, and
23 shall be filed with the Secretary of State not less than 39 days
24 before the primary election.

25 (b) A special primary election shall be held in the district in
26 which the vacancy occurred on the ninth Tuesday preceding the
27 day of the special general election at which the vacancy is to be
28 filled if both of the following conditions apply:

29 (1) The ninth Tuesday preceding the day of the special general
30 election is an established election date pursuant to Section 1000.

31 (2) A statewide or local election occurring wholly or partially
32 within the same territory in which the vacancy exists is scheduled
33 for the ninth Tuesday preceding the day of the special general
34 election.

35 (c) Notwithstanding Section 3001, applications for vote by mail
36 voter ballots may be submitted not more than 25 days before the
37 primary election, except that Section 3001 shall apply if the special
38 election or special primary election is consolidated with a statewide
39 election. Applications received by the elections official prior to
40 the 25th day shall not be returned to the sender, but shall be held

1 by the elections official and processed by him or her following the
2 25th day prior to the election in the same manner as if received at
3 that time.

4 SEC. 66. Section 3041.5 of the Family Code is amended to
5 read:

6 3041.5. (a) In any custody or visitation proceeding brought
7 under this part, as described in Section 3021, or any guardianship
8 proceeding brought under the Probate Code, the court may order
9 any person who is seeking custody of, or visitation with, a child
10 who is the subject of the proceeding to undergo testing for the
11 illegal use of controlled substances and the use of alcohol if there
12 is a judicial determination based upon a preponderance of evidence
13 that there is the habitual, frequent, or continual illegal use of
14 controlled substances or the habitual or continual abuse of alcohol
15 by the parent, legal custodian, person seeking guardianship, or
16 person seeking visitation in a guardianship. This evidence may
17 include, but may not be limited to, a conviction within the last five
18 years for the illegal use or possession of a controlled substance.
19 The court shall order the least intrusive method of testing for the
20 illegal use of controlled substances or the habitual or continual
21 abuse of alcohol by either or both parents, the legal custodian,
22 person seeking guardianship, or person seeking visitation in a
23 guardianship. If substance abuse testing is ordered by the court,
24 the testing shall be performed in conformance with procedures
25 and standards established by the United States Department of
26 Health and Human Services for drug testing of federal employees.
27 The parent, legal custodian, person seeking guardianship, or person
28 seeking visitation in a guardianship who has undergone drug testing
29 shall have the right to a hearing, if requested, to challenge a positive
30 test result. A positive test result, even if challenged and upheld,
31 shall not, by itself, constitute grounds for an adverse custody or
32 guardianship decision. Determining the best interests of the child
33 requires weighing all relevant factors. The court shall also consider
34 any reports provided to the court pursuant to the Probate Code.
35 The results of this testing shall be confidential, shall be maintained
36 as a sealed record in the court file, and may not be released to any
37 person except the court, the parties, their attorneys, the Judicial
38 Council, until completion of its authorized study of the testing
39 process, and any person to whom the court expressly grants access
40 by written order made with prior notice to all parties. Any person

1 who has access to the test results may not disseminate copies or
2 disclose information about the test results to any person other than
3 a person who is authorized to receive the test results pursuant to
4 this section. Any breach of the confidentiality of the test results
5 shall be punishable by civil sanctions not to exceed two thousand
6 five hundred dollars (\$2,500). The results of the testing may not
7 be used for any purpose, including any criminal, civil, or
8 administrative proceeding, except to assist the court in determining,
9 for purposes of the proceeding, the best interest of the child
10 pursuant to Section 3011 and the content of the order or judgment
11 determining custody or visitation. The court may order either party,
12 or both parties, to pay the costs of the drug or alcohol testing
13 ordered pursuant to this section. As used in this section, “controlled
14 substances” has the same meaning as defined in the California
15 Uniform Controlled Substances Act (Division 10 (commencing
16 with Section 11000) of the Health and Safety Code).

17 (b) This section shall remain in effect only until January 1, 2013,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2013, deletes or extends that date.

20 SEC. 67. Section 17706 of the Family Code is amended to
21 read:

22 17706. (a) It is the intent of the Legislature to encourage
23 counties to elevate the visibility and significance of the child
24 support enforcement program in the county. To advance this goal,
25 effective July 1, 2000, the counties with the 10 best performance
26 standards pursuant to clause (ii) of subparagraph (B) of paragraph
27 (2) of subdivision (b) of Section 17704 shall receive an additional
28 5 percent of the state’s share of those counties’ collections that are
29 used to reduce or repay aid that is paid pursuant to Article 6
30 (commencing with Section 11450) of Chapter 2 of Part 3 of
31 Division 9 of the Welfare and Institutions Code. The counties shall
32 use the increased recoupment for child support-related activities
33 that may not be eligible for federal child support funding under
34 Part D of Title IV of the Social Security Act, including, but not
35 limited to, providing services to parents to help them better support
36 their children financially, medically, and emotionally.

37 (b) The operation of subdivision (a) shall be suspended for the
38 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08,
39 2008–09, 2009–10, 2010–11, and 2011–12 fiscal years.

40 SEC. 68. Section 287 of the Financial Code is amended to read:

1 287. Every licensee shall notify the commissioner of any
2 change in the following officers of the licensee, to the extent that
3 those officers exist within the licensee: chairperson, chief executive
4 officer, president, general manager, managing officer, chief
5 financial officer, or chief credit officer.

6 SEC. 69. The heading of Chapter 4.5 (commencing with
7 Section 550) of Division 1 of the Financial Code is amended to
8 read:

9
10 CHAPTER 4.5. AUTHORIZATIONS FOR BANKS
11

12 SEC. 70. Section 550 of the Financial Code is amended to read:

13 550. (a) Notwithstanding the provisions of Sections 1051, 1052,
14 and 1054 of the Labor Code and Section 2947 of the Penal Code,
15 a bank or any affiliate thereof, licensed under the laws of any state
16 or of the United States, or any officer or employee thereof, may
17 deliver fingerprints taken of a director, an officer, an employee,
18 or an applicant for employment to local, state, or federal law
19 enforcement agencies for the purpose of obtaining information as
20 to the existence and nature of a criminal record, if any, of the
21 person fingerprinted relating to convictions, and to any arrest for
22 which that person is released on bail or on his or her own
23 recognizance pending trial, for the commission or attempted
24 commission of a crime involving robbery, burglary, theft,
25 embezzlement, fraud, forgery, bookmaking, receiving stolen
26 property, counterfeiting, or involving checks or credit cards or
27 using computers.

28 (b) The Department of Justice shall, pursuant to Section 11105
29 of the Penal Code, and a local agency may, pursuant to Section
30 13300 of the Penal Code, furnish to the officer of the bank or
31 affiliate responsible for the final decision regarding employment
32 of the person fingerprinted, or to his or her designees having
33 responsibilities for personnel or security decisions in the usual
34 scope and course of their employment with the bank or affiliate,
35 summary criminal history information when requested pursuant
36 to this section. If, upon evaluation of the criminal history
37 information received pursuant to this section, the bank or affiliate
38 determines that employment of the person fingerprinted would
39 constitute an unreasonable risk to that bank or affiliate or its
40 customers, the person may be denied employment.

1 (c) Banks and their affiliates shall submit to the Department of
2 Justice fingerprint images and related information required by the
3 Department of Justice of all directors, officers, employees, or an
4 applicant for employment for the purpose of obtaining information
5 regarding the existence and content of a record of state and federal
6 convictions and also information regarding the existence and
7 content of a record of state and federal arrests for which the
8 Department of Justice establishes that the person is free on bail,
9 or on his or her own recognizance, pending trial or appeal.

10 (d) When the Department of Justice receives a request under
11 this section for federal summary criminal history information, it
12 shall forward the request to the Federal Bureau of Investigation.
13 Once the information is received from the Federal Bureau of
14 Investigation, the Department of Justice shall review, compile,
15 and disseminate the information to the federally chartered bank or
16 affiliate pursuant to paragraph (1) of subdivision (o) of Section
17 11105 of the Penal Code.

18 (e) When the Department of Justice receives a request for federal
19 summary criminal history information from a nonchartered bank,
20 it shall forward the request to the Federal Bureau of Investigation.
21 Once the information is received from the Federal Bureau of
22 Investigation, the Department of Justice shall review and provide
23 a fitness determination on an applicant for employment based on
24 criminal convictions or on arrests for which the person is released
25 on bail or on his or her own recognizance pending trial for the
26 commission or attempted commission of crimes specified in
27 subdivision (a).

28 (f) A bank or affiliate may request from the Department of
29 Justice subsequent arrest notification service, as provided pursuant
30 to Section 11105.2 of the Penal Code, for persons described in
31 subdivision (a).

32 (g) The Department of Justice shall charge a fee sufficient to
33 cover the cost of processing the requests described in this section.

34 (h) Any criminal history information obtained pursuant to this
35 section is confidential and no recipient shall disclose its contents
36 other than for the purpose for which it was acquired.

37 (i) "Affiliate," as used in this section, means any corporation
38 controlling, controlled by, or under common control with, a bank,
39 whether directly, indirectly, or through one or more intermediaries.

40 SEC. 71. Section 767 of the Financial Code is amended to read:

1 767. Every officer, agent, teller, or clerk of any bank, and every
2 individual banker, or agent, teller, or clerk of any individual banker,
3 who receives any deposits, knowing that the bank, association, or
4 banker is insolvent, is guilty of a misdemeanor.

5 SEC. 72. Section 17409 of the Financial Code is amended to
6 read:

7 17409. (a) All moneys deposited in escrow to be delivered
8 upon the close of the escrow or upon any other contingency shall
9 be deposited and maintained in a noninterest-bearing demand or
10 checking account in a bank, a state or federal savings bank, or a
11 state or federal savings association or in a noninterest-bearing
12 account subject to immediate withdrawal in an industrial loan
13 company insured by the Federal Deposit Insurance Corporation
14 and approved to receive those moneys by the commissioner.
15 Thereafter, these moneys may be deposited in an interest-bearing
16 account in a bank, a state or federal savings bank, a state or federal
17 savings association, an industrial loan company approved to receive
18 those moneys by the commissioner, or a state or federal credit
19 union, if the depositor is qualified for membership under the bylaws
20 of that credit union, and the moneys are maintained separate,
21 distinct, and apart from funds belonging to the escrow agent. Those
22 funds, when deposited, are to be designated as “trust funds,”
23 “escrow accounts,” or under some other appropriate name
24 indicating that the funds are not the funds of the escrow agent.

25 Upon request of the commissioner, a licensee shall furnish to
26 the commissioner an authorization for examination of financial
27 records of any trust funds or escrow accounts, maintained in a
28 financial institution, in accordance with the procedures set forth
29 in Section 7473 of the Government Code.

30 (b) A licensee engaged in the business of receiving escrows for
31 deposit or delivery of the types specified in subdivision (c) of
32 Section 17312 and of the types not specified therein shall maintain
33 separate escrow trust accounts, for both types of escrow business
34 in the same manner as provided in subdivision (a) of this section
35 and Sections 17409.1, 17410, 17411, and 17411.1.

36 (c) Any agreement with a financial institution to establish a trust
37 account pursuant to this section shall be accompanied by a letter
38 from the licensee authorizing and requesting that the financial
39 institution immediately notify the commissioner and Fidelity

1 Corporation, in either electronic or paper form, when it becomes
2 aware of either of the following:

3 (1) The closure of any account subject to this section, other than
4 to transfer the funds to another designated trust account at the same
5 financial institution in the name of the escrow agent or the
6 remittance of the funds to the Controller's office for escheat
7 purposes.

8 (2) The occurrence of any overdraft balance in an account
9 subject to this section.

10 This subdivision does not impose any duty or obligation on a
11 financial institution to Fidelity Corporation, members of Fidelity
12 Corporation, or the commissioner.

13 SEC. 73. Section 2302 of the Fish and Game Code is amended
14 to read:

15 2302. (a) Any person, or federal, state, or local agency, district,
16 or authority that owns or manages a reservoir, as defined in Section
17 6004.5 of the Water Code, where recreational, boating, or fishing
18 activities are permitted, except a privately owned reservoir that is
19 not open to the public, shall do both of the following:

20 (1) Assess the vulnerability of the reservoir for the introduction
21 of nonnative dreissenid mussel species.

22 (2) Develop and implement a program designed to prevent the
23 introduction of nonnative dreissenid mussel species.

24 (b) The program shall include, at a minimum, all of the
25 following:

26 (1) Public education.

27 (2) Monitoring.

28 (3) Management of those recreational, boating, or fishing
29 activities that are permitted.

30 (c) Any person, or federal, state, or local agency, district, or
31 authority, that owns or manages a reservoir, as defined in Section
32 6004.5 of the Water Code, where recreational, boating, or fishing
33 activities of any kind are not permitted, except a privately owned
34 reservoir that is not open to the public, shall, based on its available
35 resources and staffing, include visual monitoring for the presence
36 of mussels as part of its routine field activities.

37 (d) Any entity that owns or manages a reservoir, as defined in
38 Section 6004.5 of the Water Code, except a privately owned
39 reservoir that is not open to the public for recreational, boating, or
40 fishing activities, may refuse the planting of fish in that reservoir

1 by the department unless the department can demonstrate that the
2 fish are not known to be infected with nonnative dreissenid
3 mussels.

4 (e) Except as specifically set forth in this section, this section
5 applies both to reservoirs that are owned or managed by
6 governmental entities and reservoirs that are owned or managed
7 by private persons or entities.

8 (f) Violation of this section is not subject to the sanctions set
9 forth in Section 12000. In lieu of any other penalty provided by
10 law, a person who violates this section shall, instead, be subject
11 to a civil penalty, in an amount not to exceed one thousand dollars
12 (\$1,000) per violation, that is imposed administratively by the
13 department. To the extent that sufficient funds and personnel are
14 available to do so, the department may adopt regulations
15 establishing procedures to implement this subdivision and enforce
16 this section.

17 (g) This section shall not apply to a reservoir in which nonnative
18 dreissenid mussels have been detected.

19 SEC. 74. Section 5655 of the Fish and Game Code is amended
20 to read:

21 5655. (a) In addition to the responsibilities imposed pursuant
22 to Section 5651, the department may clean up or abate, or cause
23 to be cleaned up or abated, the effects of any petroleum or
24 petroleum product deposited or discharged in the waters of this
25 state or deposited or discharged in any location onshore or offshore
26 where the petroleum or petroleum product is likely to enter the
27 waters of this state, order any person responsible for the deposit
28 or discharge to clean up the petroleum or petroleum product or
29 abate the effects of the deposit or discharge, and recover any costs
30 incurred as a result of the cleanup or abatement from the
31 responsible party.

32 (b) An order shall not be issued pursuant to this section for the
33 cleanup or abatement of petroleum products in any sump, pond,
34 pit, or lagoon used in conjunction with crude oil production that
35 is in compliance with all applicable state and federal laws and
36 regulations.

37 (c) The department may issue an order pursuant to this section
38 only if there is an imminent and substantial endangerment to human
39 health or the environment and the order shall remain in effect only
40 until any cleanup and abatement order is issued pursuant to Section

1 13304 of the Water Code. A regional water quality control board
2 shall incorporate the department's order into the cleanup and
3 abatement order issued pursuant to Section 13304 of the Water
4 Code, unless the department's order is inconsistent with any more
5 stringent requirement established in the cleanup and abatement
6 order. Any action taken in compliance with the department's order
7 is not a violation of any subsequent regional water quality control
8 board cleanup and abatement order issued pursuant to Section
9 13304 of the Water Code.

10 (d) The Administrator of the Office of Spill Prevention and
11 Response has the primary authority to serve as a state incident
12 commander and direct removal, abatement, response, containment,
13 and cleanup efforts with regard to all aspects of any placement of
14 petroleum or a petroleum product in the waters of the state, except
15 as otherwise provided by law. This authority may be delegated.

16 (e) For purposes of this section, the following definitions apply:

17 (1) "Petroleum product" means oil of any kind or form,
18 including, but not limited to, fuel oil, sludge, oil refuse, and oil
19 mixed with waste other than dredged spoil. "Petroleum product"
20 does not include any pesticide that has been applied for agricultural,
21 commercial, or industrial purposes or has been applied in
22 accordance with a cooperative agreement authorized by Section
23 116180 of the Health and Safety Code, that has not been discharged
24 accidentally or for purposes of disposal, and the application of
25 which was in compliance with all applicable state and federal laws
26 and regulations.

27 (2) "State incident commander" means a person with the overall
28 authority for managing and conducting incident operations during
29 an oil spill response, who shall manage an incident consistent with
30 the standardized emergency management system required by
31 Section 8607 of the Government Code. Incident management
32 generally includes the development of objectives, strategies, and
33 tactics, ordering and release of resources, and coordinating with
34 other appropriate response agencies to ensure that all appropriate
35 resources are properly utilized and that this coordinating function
36 is performed in a manner designed to minimize risk to other
37 persons and to the environment.

38 SEC. 75. Section 35783.1 of the Food and Agricultural Code
39 is amended to read:

1 35783.1. A recording thermometer shall be installed in each
2 dairy farm milk storage tank used to cool or store market milk
3 during the milking process. If a farm pickup tanker is used in lieu
4 of a dairy farm tank, the recording thermometer shall be installed
5 in the pipeline following an effective cooling device that cools the
6 milk to 45 degrees Fahrenheit (7 degrees Celsius) or less. Nothing
7 in this section shall be construed as meaning that a recording
8 thermometer must be attached when milk tankers are moved over
9 the road. The secretary shall issue regulations providing standards
10 for these thermometers including installation and operation.

11 SEC. 76. Section 47000 of the Food and Agricultural Code is
12 amended to read:

13 47000. The Legislature finds and declares all of the following
14 with regard to the direct marketing of agricultural products:

15 (a) Direct marketing of agricultural products benefits the
16 agricultural community and the consumer by, among other things,
17 providing an alternative method for growers to sell their products
18 while benefiting the consumer by supplying quality produce at
19 reasonable prices.

20 (b) Direct marketing is a good public relations tool for the
21 agricultural industry that brings the farmer face-to-face with
22 consumers.

23 (c) The marketing potential of a wide variety of
24 California-produced agricultural products should be maximized.

25 (d) Farm stands allow farmers to sell fresh produce and eggs
26 grown on their farm as well as other food products made with
27 ingredients produced on or near the farm, thus enhancing their
28 income and the local economy.

29 (e) The department should maintain a direct marketing program
30 and the industry should continue to encourage the sale of
31 California-grown fresh produce.

32 (f) It is the intent of the state to promote the consumption of
33 California-grown produce and to promote access to
34 California-produced agricultural products. Restaurants and
35 nonprofit organizations can provide assistance in bringing
36 California-grown products to all Californians.

37 (g) A regulatory scheme should be developed that provides the
38 flexibility that will make direct marketing a viable marketing
39 system.

1 (h) The department should assist producers in organizing
2 certified farmers' markets, field retail stands, farm stands, and
3 other forms of direct marketing by providing technical advice on
4 marketing methods and in complying with the regulations that
5 affect direct marketing programs.

6 (i) The department is encouraged to establish an ad hoc advisory
7 committee to assist the department in establishing regulations
8 affecting direct marketing of products and to advise the secretary
9 in all matters pertaining to direct marketing.

10 SEC. 77. Section 52891.1 of the Food and Agricultural Code
11 is amended to read:

12 52891.1. (a) The board may, by resolution, take actions that
13 are in the best interest of the cotton industry in the district, which
14 shall include, but not be limited to, the growing of cottons other
15 than Acala and Pima. The resolution may contain provisions to
16 protect the quality and integrity of approved fiber and seed grown
17 within the district.

18 (b) The resolution shall be subject to a referendum conducted
19 by the secretary, upon the request of the board, using information
20 supplied by the board and other information as determined by the
21 secretary, or a referendum shall be conducted by the secretary if
22 a petition signed by not less than 5 percent of the qualified cotton
23 growers in the district is presented to the board. The costs of any
24 referendum conducted pursuant to this chapter shall be paid from
25 funds collected pursuant to this chapter.

26 (c) The secretary shall find the resolution approved if either of
27 the following conditions is met:

28 (1) Not less than 65 percent of the cotton growers certified by
29 the secretary who voted in the referendum, voted in favor, and that
30 those cotton growers so voting represent at least a majority of the
31 cotton producing acreage of all cotton growers who voted in the
32 referendum.

33 (2) At least a majority of those cotton growers who voted in the
34 referendum voted in favor and that those cotton growers so voting
35 represent not less than 65 percent of the cotton producing acreage
36 of all cotton growers who voted in the referendum. The secretary
37 shall then so certify to the board, which shall then make the
38 approved resolution effective as an order of the board within 10
39 days after the certification by the secretary.

1 SEC. 78. Section 52892 of the Food and Agricultural Code is
2 amended to read:

3 52892. Upon implementation of Article 9.5 (commencing with
4 Section 52951), the powers and duties of the board shall also
5 include, but not be limited to, all of the following:

6 (a) To adopt, and from time to time alter, rescind, modify, and
7 amend, all proper and necessary rules, regulations, and orders for
8 carrying out the provisions of this chapter and for exercising its
9 powers and the performance of its duties, including rules for
10 regulation of appeals from any rule, regulation, or order of the
11 board.

12 (b) To administer and enforce this chapter, and to do and
13 perform all acts and exercise all powers incidental to or in
14 connection with or deemed reasonably necessary, proper, or
15 advisable to effectuate the purposes of this chapter.

16 (c) To employ a manager to serve, at the pleasure of the board,
17 as president and chief executive officer of the board and other
18 personnel, including legal counsel, that are necessary to carry out
19 the provisions of this chapter.

20 (d) To establish offices and incur expense, and to enter into any
21 and all contracts and agreements, and to create such liabilities and
22 borrow such funds in advance of receipt of assessments as may be
23 necessary, in the opinion of the board, for the proper administration
24 and enforcement of this chapter and the performance of its duties.

25 (e) To promote the sale of cotton by advertising and other
26 promotional means for the purpose of maintaining and expanding
27 present markets and creating new and larger intrastate, interstate,
28 and foreign markets for cotton.

29 (f) To enter into cost-sharing advertising with other products
30 considered, by the board, to be fair and equitable to both parties.

31 (g) In the discretion of the board, to make, in the name of the
32 board, contracts to render service in formulating and conducting
33 plans and programs, and other contracts or agreements deemed
34 necessary for the promotion of the sale of cotton.

35 (h) In the discretion of the board, to conduct, and contract with
36 others to conduct, scientific research, including the study, analysis,
37 dissemination, and accumulation of information obtained from
38 that research or elsewhere regarding the marketing and production
39 of cotton. In connection with that research, the board shall have
40 the power to accept contributions of, or to match, private, state, or

1 federal funds that may be available for those purposes, and to
2 employ or make contributions of funds to other persons or state
3 or federal agencies conducting that research.

4 (i) In the discretion of the board, to publish and distribute,
5 without charge, a bulletin or other communication for
6 dissemination of information relating to the cotton industry to
7 growers and other industry members.

8 SEC. 79. Section 52931 of the Food and Agricultural Code is
9 amended to read:

10 52931. A referendum of all cotton growers within the district
11 shall be conducted if a petition, signed by not less than 5 percent
12 of the cotton growers in the district, is submitted to the secretary,
13 which calls for a referendum pertaining to the operation of this
14 chapter.

15 SEC. 80. Section 52932 of the Food and Agricultural Code is
16 amended to read:

17 52932. This chapter shall remain operative if either of the
18 following conditions is met:

19 (a) Not less than 65 percent of the cotton growers certified by
20 the secretary who voted in the referendum, voted in favor of this
21 chapter, and those cotton growers so voting represent at least a
22 majority of the cotton producing acreage of all cotton growers who
23 voted in the referendum.

24 (b) At least a majority of those cotton growers who voted in the
25 referendum voted in favor of this chapter and those cotton growers
26 so voting represent not less than 65 percent of the cotton producing
27 acreage of all cotton growers who voted in the referendum.

28 SEC. 81. Section 8206 of the Government Code is amended
29 to read:

30 8206. (a) (1) A notary public shall keep one active sequential
31 journal at a time, of all official acts performed as a notary public.
32 The journal shall be kept in a locked and secured area, under the
33 direct and exclusive control of the notary. Failure to secure the
34 journal shall be cause for the Secretary of State to take
35 administrative action against the commission held by the notary
36 public pursuant to Section 8214.1.

37 (2) The journal shall be in addition to, and apart from, any copies
38 of notarized documents that may be in the possession of the notary
39 public and shall include all of the following:

40 (A) Date, time, and type of each official act.

1 (B) Character of every instrument sworn to, affirmed,
2 acknowledged, or proved before the notary.

3 (C) The signature of each person whose signature is being
4 notarized.

5 (D) A statement as to whether the identity of a person making
6 an acknowledgment or taking an oath or affirmation was based on
7 satisfactory evidence. If identity was established by satisfactory
8 evidence pursuant to Section 1185 of the Civil Code, the journal
9 shall contain the signature of the credible witness swearing or
10 affirming to the identity of the individual or the type of identifying
11 document, the governmental agency issuing the document, the
12 serial or identifying number of the document, and the date of issue
13 or expiration of the document.

14 (E) If the identity of the person making the acknowledgment or
15 taking the oath or affirmation was established by the oaths or
16 affirmations of two credible witnesses whose identities are proven
17 to the notary public by presentation of any document satisfying
18 the requirements of paragraph (3) or (4) of subdivision (b) of
19 Section 1185 of the Civil Code, the notary public shall record in
20 the journal the type of documents identifying the witnesses, the
21 identifying numbers on the documents identifying the witnesses,
22 and the dates of issuance or expiration of the documents identifying
23 the witnesses.

24 (F) The fee charged for the notarial service.

25 (G) If the document to be notarized is a deed, quitclaim deed,
26 deed of trust affecting real property, or a power of attorney
27 document, the notary public shall require the party signing the
28 document to place his or her right thumbprint in the journal. If the
29 right thumbprint is not available, then the notary shall have the
30 party use his or her left thumb, or any available finger and shall
31 so indicate in the journal. If the party signing the document is
32 physically unable to provide a thumbprint or fingerprint, the notary
33 shall so indicate in the journal and shall also provide an explanation
34 of that physical condition. This paragraph shall not apply to a
35 trustee's deed resulting from a decree of foreclosure or a
36 nonjudicial foreclosure pursuant to Section 2924 of the Civil Code,
37 nor to a deed of reconveyance.

38 (b) If a sequential journal of official acts performed by a notary
39 public is stolen, lost, misplaced, destroyed, damaged, or otherwise
40 rendered unusable as a record of notarial acts and information, the

1 notary public shall immediately notify the Secretary of State by
2 certified or registered mail. The notification shall include the period
3 of the journal entries, the notary public commission number, and
4 the expiration date of the commission, and when applicable, a
5 photocopy of any police report that specifies the theft of the
6 sequential journal of official acts.

7 (c) Upon written request of any member of the public, which
8 request shall include the name of the parties, the type of document,
9 and the month and year in which notarized, the notary shall supply
10 a photostatic copy of the line item representing the requested
11 transaction at a cost of not more than thirty cents (\$0.30) per page.

12 (d) The journal of notarial acts of a notary public is the exclusive
13 property of that notary public, and shall not be surrendered to an
14 employer upon termination of employment, whether or not the
15 employer paid for the journal, or at any other time. The notary
16 public shall not surrender the journal to any other person, except
17 the county clerk, pursuant to Section 8209, or immediately, or if
18 the journal is not present then as soon as possible, upon request to
19 a peace officer investigating a criminal offense who has reasonable
20 suspicion to believe the journal contains evidence of a criminal
21 offense, as defined in Sections 830.1, 830.2, and 830.3 of the Penal
22 Code, acting in his or her official capacity and within his or her
23 authority. If the peace officer seizes the notary journal, he or she
24 must have probable cause as required by the laws of this state and
25 the United States. A peace officer or law enforcement agency that
26 seizes a notary journal shall notify the Secretary of State by
27 facsimile within 24 hours, or as soon as possible thereafter, of the
28 name of the notary public whose journal has been seized. The
29 notary public shall obtain a receipt for the journal, and shall notify
30 the Secretary of State by certified mail within 10 days that the
31 journal was relinquished to a peace officer. The notification shall
32 include the period of the journal entries, the commission number
33 of the notary public, the expiration date of the commission, and a
34 photocopy of the receipt. The notary public shall obtain a new
35 sequential journal. If the journal relinquished to a peace officer is
36 returned to the notary public and a new journal has been obtained,
37 the notary public shall make no new entries in the returned journal.
38 A notary public who is an employee shall permit inspection and
39 copying of journal transactions by a duly designated auditor or
40 agent of the notary public's employer, provided that the inspection

1 and copying is done in the presence of the notary public and the
2 transactions are directly associated with the business purposes of
3 the employer. The notary public, upon the request of the employer,
4 shall regularly provide copies of all transactions that are directly
5 associated with the business purposes of the employer, but shall
6 not be required to provide copies of any transaction that is unrelated
7 to the employer's business. Confidentiality and safekeeping of any
8 copies of the journal provided to the employer shall be the
9 responsibility of that employer.

10 (e) The notary public shall provide the journal for examination
11 and copying in the presence of the notary public upon receipt of
12 a subpoena duces tecum or a court order, and shall certify those
13 copies if requested.

14 (f) Any applicable requirements of, or exceptions to, state and
15 federal law shall apply to a peace officer engaged in the search or
16 seizure of a sequential journal.

17 SEC. 82. Section 8299.01 of the Government Code is amended
18 to read:

19 8299.01. (a) There shall be established in the state government,
20 on or before May 1, 2009, the California Commission on Disability
21 Access. The commission shall consist of 11 public members, and
22 six ex officio nonvoting members, appointed as follows:

23 (1) Two public members appointed by the Senate Committee
24 on Rules, with one appointee from the business community and
25 one appointee from the disability community. The Senate
26 Committee on Rules shall request and consider nominations from
27 the business community and the disability community for these
28 appointments.

29 (2) Two public members appointed by the Speaker of the
30 Assembly, with one appointee from the business community and
31 one appointee from the disability community. The Speaker of the
32 Assembly shall request and consider nominations from the business
33 community and the disability community for these appointments.

34 (3) Seven public members appointed by the Governor, with the
35 consent of the Senate. Four of the Governor's appointees shall be
36 from the disability community. Three appointees shall be from the
37 business community, including an appointee representative from
38 the California Business Properties Association. The Governor shall
39 request and consider nominations from the business community
40 and the disability community for these appointments.

1 (4) The State Architect, or his or her representative, as a
2 nonvoting ex officio member.

3 (5) The Attorney General, or his or her representative, as a
4 nonvoting ex officio member.

5 (6) Two members of the Senate, appointed by the Senate
6 Committee on Rules as nonvoting ex officio members. One
7 member shall be from the majority party, and one member shall
8 be from the minority party.

9 (7) Two members of the Assembly, appointed by the Speaker
10 of the Assembly, as nonvoting ex officio members. One member
11 shall be from the majority party, and one member shall be from
12 the minority party.

13 (b) It is the intent of this section that the commission shall be
14 broadly representative of the ethnic, gender, and racial diversity
15 of the population of California. It is further the intent of this section
16 that both of the following apply:

17 (1) The appointees from the disability community shall be
18 persons with a disability relating to, but not limited to, vision,
19 hearing, mobility, breathing, speech, cognitive, cardiac, emotional,
20 developmental, learning, psychological, or immunological
21 disabilities.

22 (2) The commission recruitment and appointment process shall
23 engage in identifying qualified disability community
24 representatives who should possess elements of the following
25 qualifications:

26 (A) Identify as people with disabilities, activity limitations, or
27 both.

28 (B) Have personal experience with disability and disability
29 advocacy and the ability to speak broadly on disability access
30 issues.

31 (C) Are knowledgeable about cross-disability access issues,
32 including, but not limited to, hearing, vision, mobility, speech, and
33 cognitive limitations.

34 (D) Are knowledgeable about a variety of physical,
35 communication, and program access issues.

36 (E) Are involved with segments of national, state, or local
37 constituencies of the disability community, such as active
38 involvement in broad-based disability organizations.

39 (F) Have in place and use communication networks to facilitate
40 communication with the segments of the disability community

1 they are representing, including, but not limited to, segments of
2 diverse ethnic, cultural, sex, sexual orientation, age, and linguistic
3 communities that are representative of the diverse population of
4 Californians with disabilities.

5 (c) Public members shall be appointed for three-year terms,
6 except that, with respect to the initial appointees, the Governor
7 shall appoint three members for a one-year term, two members for
8 a two-year term, and two members for a three-year term. The
9 Senate Committee on Rules and the Speaker of the Assembly shall
10 each initially appoint one member for a two-year term and one
11 member for a three-year term. Public members may be reappointed
12 for additional terms.

13 (d) Vacancies shall be filled by the appointing authority for the
14 unexpired portion of the terms.

15 SEC. 83. Section 8879.73 of the Government Code is amended
16 to read:

17 8879.73. (a) To distribute funds from the Uniform Developer
18 Fees Subaccount to eligible applicants, as defined in paragraph
19 (2) of subdivision (a) of Section 8879.71, the commission shall
20 administer a competitive grant application program pursuant to
21 this section.

22 (b) Under this section, each fiscal year in which funds are
23 appropriated for the program shall constitute a funding cycle. To
24 ensure that as many eligible applicants as possible may benefit
25 from the competitive portion of the program, no single project
26 shall receive more than one million dollars (\$1,000,000) in a single
27 funding cycle in which program funds are allocated by the
28 commission.

29 (c) Each eligible applicant desiring to participate in the program
30 in any funding cycle under this section shall submit to the
31 commission all of the following:

32 (1) A description of the eligible project nominated for funding,
33 including a description of the project's cost, scope, and specific
34 improvements and benefits it is anticipated to achieve.

35 (2) A description of the project's current status, including the
36 phase of delivery the project is in at the time it is nominated for
37 funding and a schedule for the project's completion.

38 (3) A description of the ways in which the project would support
39 transportation and land use planning goals within the region.

1 (4) The amount of eligible local matching funds the applicant
2 is committing to the project.

3 (5) The amount of program funds the applicant seeks from the
4 program for the project.

5 (d) The commission shall review nominated projects under this
6 section and their accompanying documentation to ensure that each
7 nominated project meets the requirements of this article and to
8 confirm that each project has a commitment of the requisite amount
9 of eligible local matching funds as required in this article. Upon
10 conducting the review of the requirements and determining the
11 proposed projects to be in compliance with this article, the projects
12 shall be deemed eligible.

13 (e) The commission shall adopt a program of projects under
14 this section that is geographically balanced and provides
15 cost-effective and multimodal safety, reliability, and environmental
16 benefits. In allocating funds to specific projects, the commission
17 shall give priority to projects that can do any of the following:

18 (1) Commence construction or implementation of the project
19 in a manner to provide the public benefit at the earliest possible
20 date.

21 (2) Enhance the leveragability of bond funds by utilizing a
22 higher proportion of nonbond funds toward a project's total cost
23 than is otherwise required by this article.

24 (3) Demonstrate quantifiable air quality improvements,
25 including, but not limited to, a demonstration that the project can
26 result in a significant reduction in vehicle-miles traveled.

27 SEC. 84. Section 8880.321 of the Government Code is amended
28 to read:

29 8880.321. The commission shall promulgate regulations to
30 establish a system of verifying the validity of prizes and to effect
31 payment of the prizes, provided that:

32 (a) For convenience of the public, lottery game retailers may
33 be authorized by the commission to pay winners of up to six
34 hundred dollars (\$600) after performing validation procedures on
35 their premises appropriate to the lottery game involved.

36 (b) No prize may be paid arising from tickets or shares that are
37 stolen, counterfeit, altered, fraudulent, unissued, produced or issued
38 in error, unreadable, not received or not recorded by the lottery by
39 applicable deadlines, lacking in captions that confirm and agree
40 with the lottery play symbols required by the lottery game involved,

1 purchased by a minor, or not in compliance with additional specific
 2 rules and regulations and confidential validation and security tests
 3 appropriate to the particular lottery game. The lottery may pay a
 4 prize even though the actual winning ticket is not received by the
 5 lottery if the lottery validates the claim for the prize based upon
 6 substantial proof. “Substantial proof” means any evidence that
 7 would permit the lottery to use established validation procedures,
 8 as specified in lottery regulations, to validate the claim.

9 The commission may require that any form relating to a claim
 10 for a prize shall be signed under penalty of perjury. This declaration
 11 shall meet the requirements of Section 2015.5 of the Code of Civil
 12 Procedure.

13 (c) No particular prize in any lottery game shall be paid more
 14 than once.

15 (d) The commission may specify that winners of less than
 16 twenty-five dollars (\$25) claim the prizes from either the same
 17 lottery game retailer from whom the ticket or share was purchased
 18 or from the lottery itself.

19 (e) Players shall have the right to claim prize money for 180
 20 days after the drawing or the end of the lottery game or play in
 21 which the prize was won. The commission may define shorter time
 22 periods for eligibility for participation in, and entry into, drawings
 23 involving entries or finalists. If a valid claim is not made for a
 24 prize directly payable by the commission or for any online game
 25 prize within the period applicable for that prize, the unclaimed
 26 prize money shall be treated as set forth in subdivision (a) of
 27 Section 8880.4 or, commencing with the 2009–10 fiscal year, be
 28 treated as total revenues as set forth in Section 8880.4.5.

29 (f) After the expiration of the claim period for prizes for each
 30 lottery game, the commission shall make available a detailed
 31 tabulation of the total number of tickets or shares actually sold in
 32 a lottery game and the total number of prizes of each prize
 33 denomination that were actually claimed and paid directly by the
 34 commission.

35 (g) A ticket or share shall not be purchased by, and a prize shall
 36 not be paid to, a member of the commission, any officer or
 37 employee of the commission, any officer or employee of the
 38 Controller who is designated in writing by the Controller as having
 39 possible access to confidential lottery information, programs, or
 40 systems, or any spouse, child, brother, sister, or parent of that

1 person who resides within the same household of the person. Any
2 person who knowingly sells or purchases a ticket or share in
3 violation of this section, or who knowingly claims or attempts to
4 claim a prize with a ticket or share that was purchased or sold in
5 violation of this section, is guilty of a misdemeanor.

6 (h) No prize shall be paid to any person under the age of 18
7 years. Any person who knowingly claims or attempts to claim a
8 prize with a ticket or share purchased by a person under the age
9 of 18 years is guilty of a misdemeanor.

10 SEC. 85. Section 11011.1 of the Government Code is amended
11 to read:

12 11011.1. (a) Notwithstanding any other provision of law,
13 except Article 8.5 (commencing with Section 54235) of Chapter
14 5 of Part 1 of Division 2 of Title 5, the disposal of surplus state
15 real property by the Department of General Services shall be
16 subject to the requirements of this section. For purposes of this
17 section, “surplus state real property” means real property declared
18 surplus by the Legislature and directed to be disposed of by the
19 Department of General Services, including any real property
20 previously declared surplus by the Legislature but not yet disposed
21 of by the Department of General Services prior to the enactment
22 of this section.

23 (b) (1) The department may dispose of surplus state real
24 property by sale, lease, exchange, a sale combined with an
25 exchange, or other manner of disposition of property, as authorized
26 by the Legislature, upon any terms and conditions and subject to
27 any reservations and exceptions the department deems to be in the
28 best interests of the state.

29 (2) (A) The Legislature finds and declares that the provision
30 of decent housing for all Californians is a state goal of the highest
31 priority. The disposal of surplus state real property is a direct and
32 substantial public purpose of statewide concern and will serve an
33 important public purpose, including mitigating the environmental
34 effects of state activities. Therefore, it is the intent of the
35 Legislature that priority be given, as specified in this section, to
36 the disposal of surplus state real property to housing for persons
37 and families of low or moderate income, where land is suitable
38 for housing and there is a need for housing in the community.

39 (B) Surplus state real property that has been determined by the
40 department not to be needed by any state agency shall be offered

1 to any local agency, as defined in subdivision (a) of Section 54221,
2 and then to nonprofit affordable housing sponsors, prior to being
3 offered for sale to private entities or individuals. As used in this
4 subdivision, “nonprofit affordable housing sponsor” means any
5 of the following:

6 (i) A nonprofit corporation incorporated pursuant to Division
7 2 (commencing with Section 5000) of Title 1 of the Corporations
8 Code.

9 (ii) A cooperative housing corporation which is a stock
10 cooperative, as defined by Section 11003.2 of the Business and
11 Professions Code.

12 (iii) A limited-dividend housing corporation.

13 (C) The department, subject to this section, shall maintain a list
14 of surplus state real property in a conspicuous place on its Internet
15 Web site. The department shall provide local agencies and, upon
16 request, members of the public, with electronic notification of
17 updates to the list of properties.

18 (D) To be considered as a potential priority buyer of the surplus
19 state real property, a local agency or nonprofit affordable housing
20 sponsor shall notify the department of its interest in the surplus
21 state real property within 90 days of the department posting on its
22 Internet Web site the notice of the availability of the surplus state
23 real property. The local agency or nonprofit affordable housing
24 sponsor shall demonstrate, to the satisfaction of the department,
25 that the surplus state real property, or portion of that surplus state
26 real property, is to be used by the local agency or nonprofit
27 affordable housing sponsor for open space, public parks, affordable
28 housing projects, or development of local government-owned
29 facilities. When more than one local agency expresses an interest
30 in the surplus state real property, priority shall be given to the local
31 agency that intends to use the surplus state real property for
32 affordable housing. If no agreement or transfer of title occurs, the
33 priority shall next be given to the local agency that intends to use
34 the surplus state real property for open space, public parks, or
35 development of local government-owned facilities. The sales
36 agreement shall be executed by the local agency or nonprofit
37 affordable housing sponsor within 60 days after the director
38 determines the local agency or nonprofit affordable housing
39 sponsor is to receive the surplus state real property. The sale of
40 the surplus state real property to a local agency or nonprofit

1 affordable housing sponsor pursuant to this section shall be
2 completed, and title transferred, within 60 days of the date the
3 department executes the sales agreement, or, if required by law,
4 no later than 60 days after the State Public Works Board has
5 authorized the sale. If the sale of a surplus state real property to a
6 local agency or nonprofit affordable housing sponsor is not
7 completed within the timeframe specified in this subparagraph,
8 then the department shall proceed with the process for disposal to
9 other private entities or individuals.

10 (c) (1) If more than one local agency desires the surplus state
11 real property for use as an open space, a public park, or the
12 development of a local government-owned facility, the department
13 shall transfer the surplus state real property to the local agency
14 offering the highest price above fair market value. If more than
15 one local agency desires the surplus state real property for use as
16 an affordable housing project, the department shall transfer the
17 surplus state real property to the local agency offering the greatest
18 number of affordable housing units. If more than one nonprofit
19 affordable housing sponsor desires the surplus state real property
20 for use as an affordable housing project, the department shall
21 transfer the surplus state real property to the nonprofit affordable
22 housing sponsor offering the greatest number of affordable housing
23 units.

24 (2) If no local agency or nonprofit affordable housing sponsor
25 is interested, or an agreement, as provided above, is not reached,
26 then the disposal of the surplus state real property to private entities
27 or individuals shall be pursuant to a public bidding process
28 designed to obtain the highest most certain return for the state from
29 a responsible bidder, and any transaction based on such a bidding
30 process shall be deemed to be the fair market value for the purposes
31 of the reporting requirements pursuant to subdivision (d).

32 (3) Notwithstanding any other provision of law, the department
33 may sell surplus state real property, or a portion of surplus state
34 real property, to a local agency, or to a nonprofit affordable housing
35 sponsor if no local agency is interested in the surplus state real
36 property, for affordable housing projects at a sales price less than
37 fair market value if the department determines that such a discount
38 will enable the provision of housing for persons and families of
39 low or moderate income. Nothing shall preclude a local agency
40 that purchases the surplus state real property for affordable housing

1 from reconveying the surplus state real property to a nonprofit
 2 affordable housing sponsor for development of affordable housing.
 3 Transfer of title to the surplus state real property or lease of the
 4 surplus state real property for affordable housing shall be
 5 conditioned upon continued use of the surplus state real property
 6 as housing for persons and families of low and moderate income
 7 for at least 40 years and the department shall record a regulatory
 8 agreement that imposes affordability covenants, conditions, and
 9 restrictions on the surplus state real property. The regulatory
 10 agreement shall be a first priority lien on the surplus state real
 11 property and last for a period of at least 40 years, and if another
 12 state agency is lending funds for a project, a combined regulatory
 13 agreement shall be utilized. Notwithstanding any other provision
 14 of law, the regulatory agreement shall not be subordinated to any
 15 other lien or encumbrance except for any federal loan program
 16 whose statutes or regulations require a first lien priority for that
 17 federal loan.

18 (4) Notwithstanding any other provision of law, the Director of
 19 General Services may transfer surplus state real property to a local
 20 agency for less than fair market value if the local agency uses the
 21 surplus state real property for parks or open-space purposes. The
 22 deed or other instrument of transfer shall provide that the surplus
 23 state real property would revert to the state if the use changed to
 24 a use other than parks or open-space purposes during the period
 25 of 25 years after the transfer date. For the purpose of this paragraph,
 26 “open-space purposes” means the use of land for public recreation,
 27 enjoyment of scenic beauty, or conservation or use of natural
 28 resources.

29 (d) Thirty days prior to executing a transaction for a sale, lease,
 30 exchange, a sale combined with an exchange, or other manner of
 31 disposition of the surplus state real property for less than fair
 32 market value or for affordable housing, or as authorized by the
 33 Legislature, the Director of General Services shall report to the
 34 chairpersons of the fiscal committees of the Legislature all of the
 35 following:

- 36 (1) The financial terms of the transaction.
- 37 (2) A comparison of fair market value for the surplus state real
 38 property and the terms listed in paragraph (1).
- 39 (3) The basis for agreeing to terms and conditions other than
 40 fair market value.

1 (e) As to surplus state real property sold and or exchanged
2 pursuant to this section, the director shall except and reserve to
3 the state all mineral deposits, as defined in Section 6407 of the
4 Public Resources Code, together with the right to prospect for,
5 mine, and remove the deposits. If, however, the director determines
6 that there is little or no potential for mineral deposits, the
7 reservation may be without surface right of entry above a depth
8 of 500 feet, or the rights to prospect for, mine, and remove the
9 deposits shall be limited to those areas of the surplus state real
10 property conveyed that the director determines to be reasonably
11 necessary for the removal of the deposits.

12 (f) The failure to comply with this section, except for subdivision
13 (d), shall not invalidate the transfer or conveyance of surplus state
14 real property to a purchaser for value.

15 (g) For purposes of this section, fair market value is established
16 by an appraisal and economic evaluation conducted by the
17 department or approved by the department.

18 SEC. 86. Section 14679 of the Government Code is amended
19 to read:

20 14679. (a) A parking facility under the jurisdiction or control
21 of a state agency, that is available to private persons who desire
22 to conduct business with the state agency, shall reserve for the
23 exclusive use of any vehicle that displays either a special
24 identification license plate issued pursuant to Section 5007 of the
25 Vehicle Code, or a distinguishing placard issued pursuant to
26 Section 22511.55 or 22511.59 of the Vehicle Code, a minimum
27 of one parking space for up to 25 spaces, and additional parking
28 spaces pursuant to Section 1129B of Part 2 of Title 24 of the
29 California Code of Regulations.

30 (1) (A) The space or spaces shall be reserved by posting
31 immediately adjacent to and visible from such space or spaces a
32 sign consisting of a profile view of a wheelchair with occupant in
33 white on a blue background.

34 (B) The sign shall also clearly and conspicuously state the
35 following: "Minimum Fine \$250," pursuant to Section 42001.13
36 of the Vehicle Code, imposed upon a person parking or leaving
37 standing a vehicle in a stall or space designated for the use of
38 disabled persons and disabled veterans, unless a special license
39 plate issued pursuant to Section 5007 of the Vehicle Code or a
40 distinguishing placard issued pursuant to Section 22511.55 or

1 22511.59 of the Vehicle Code is displayed on the vehicle. This
2 subparagraph applies only to signs for parking spaces constructed
3 on or after July 1, 2008, and signs that are replaced on or after July
4 1, 2008, or as the State Architect deems necessary when
5 renovations, structural repair, alterations, and additions occur to
6 existing buildings and facilities on or after July 1, 2008.

7 (2) The loading and unloading area of the pavement adjacent
8 to a parking stall or space designated for disabled persons or
9 disabled veterans shall be marked by a border and hatched lines.
10 The border shall be painted blue and the hatched lines shall be
11 painted a suitable contrasting color to the parking space. Blue or
12 white paint is preferred. In addition, within the border the words
13 “No Parking” shall be painted in white letters no less than 12 inches
14 high. This paragraph applies only to parking spaces constructed
15 on or after July 1, 2008, and painting that is done on or after July
16 1, 2008, or as the State Architect deems necessary when
17 renovations, structural repair, alterations, and additions occur to
18 existing buildings and facilities on or after July 1, 2008.

19 (b) If no parking facility under the jurisdiction and control of a
20 state agency is available to private persons who desire to conduct
21 business with the state agency, the state agency shall request the
22 local authority having jurisdiction over streets immediately adjacent
23 to the property of the state agency to provide parking spaces for
24 the use of disabled persons and disabled veterans pursuant to
25 Section 22511.7 of the Vehicle Code.

26 (c) The Department of General Services under the Division of
27 the State Architect shall develop pursuant to Section 4450, as
28 appropriate, conforming regulations to ensure compliance with
29 subparagraph (B) of paragraph (1) of subdivision (a) and paragraph
30 (2) of subdivision (a). Initial regulations to implement these
31 provisions shall be adopted as emergency regulations. The adoption
32 of these regulations shall be considered by the Department of
33 General Services to be an emergency necessary for the immediate
34 preservation of the public peace, health and safety, or general
35 welfare.

36 SEC. 87. Section 31485.14 of the Government Code is amended
37 to read:

38 31485.14. All distributions of benefits provided under this
39 chapter shall comply with the requirements of Section 401(a)(9)
40 of Title 26 of the United States Code that are applicable to public

1 employee plans, including, but not limited to, requirements relating
2 to the following:

3 (a) The time that benefit payments begin, including benefit
4 payments paid after the death of a member.

5 (b) The form of distribution of benefits.

6 (c) Incidental death benefits.

7 SEC. 88. Section 53075.9 of the Government Code is amended
8 to read:

9 53075.9. (a) Every taxicab transportation service shall include
10 the number of its certificate, license, or permit in every written or
11 oral advertisement of the services it offers.

12 (b) For purposes of this subdivision, “advertisement” includes,
13 but is not limited to, the issuance of any card, sign, or device to
14 any person, the causing, permitting, or allowing the placement of
15 any sign or marking on or in any building or structure, or in any
16 media form, including newspaper, magazine, radiowave, satellite
17 signal, or any electronic transmission, or in any directory soliciting
18 taxicab transportation services subject to this chapter.

19 (c) Whenever the local agency, after a hearing, finds that any
20 person or corporation is operating as a taxicab transportation
21 service without a valid certificate, license, or permit or fails to
22 include in any written or oral advertisement the number required
23 by subdivision (a), the local agency may impose a fine of not more
24 than five thousand dollars (\$5,000) for each violation. The local
25 agency may assess the person or corporation an amount sufficient
26 to cover the reasonable expense of investigation incurred by the
27 local agency. The local agency may assess interest on any fine or
28 assessment imposed, to commence on the day the payment of the
29 fine or assessment becomes delinquent. All fines, assessments,
30 and interest collected shall be deposited at least once each month
31 in a fund established for the purpose of enforcing this section.

32 (d) For purposes of this section, “local agency” has the same
33 meaning as specified in subdivision (b) of Section 53075.7.

34 SEC. 89. Section 65080 of the Government Code is amended
35 to read:

36 65080. (a) Each transportation planning agency designated
37 under Section 29532 or 29532.1 shall prepare and adopt a regional
38 transportation plan directed at achieving a coordinated and balanced
39 regional transportation system, including, but not limited to, mass
40 transportation, highway, railroad, maritime, bicycle, pedestrian,

1 goods movement, and aviation facilities and services. The plan
2 shall be action-oriented and pragmatic, considering both the
3 short-term and long-term future, and shall present clear, concise
4 policy guidance to local and state officials. The regional
5 transportation plan shall consider factors specified in Section 134
6 of Title 23 of the United States Code. Each transportation planning
7 agency shall consider and incorporate, as appropriate, the
8 transportation plans of cities, counties, districts, private
9 organizations, and state and federal agencies.

10 (b) The regional transportation plan shall be an internally
11 consistent document and shall include all of the following:

12 (1) A policy element that describes the transportation issues in
13 the region, identifies and quantifies regional needs, and describes
14 the desired short-range and long-range transportation goals, and
15 pragmatic objective and policy statements. The objective and policy
16 statements shall be consistent with the funding estimates of the
17 financial element. The policy element of transportation planning
18 agencies with populations that exceed 200,000 persons may
19 quantify a set of indicators including, but not limited to, all of the
20 following:

21 (A) Measures of mobility and traffic congestion, including, but
22 not limited to, daily vehicle hours of delay per capita and vehicle
23 miles traveled per capita.

24 (B) Measures of road and bridge maintenance and rehabilitation
25 needs, including, but not limited to, roadway pavement and bridge
26 conditions.

27 (C) Measures of means of travel, including, but not limited to,
28 percentage share of all trips (work and nonwork) made by all of
29 the following:

30 (i) Single occupant vehicle.

31 (ii) Multiple occupant vehicle or carpool.

32 (iii) Public transit including commuter rail and intercity rail.

33 (iv) Walking.

34 (v) Bicycling.

35 (D) Measures of safety and security, including, but not limited
36 to, total injuries and fatalities assigned to each of the modes set
37 forth in subparagraph (C).

38 (E) Measures of equity and accessibility, including, but not
39 limited to, percentage of the population served by frequent and
40 reliable public transit, with a breakdown by income bracket, and

1 percentage of all jobs accessible by frequent and reliable public
2 transit service, with a breakdown by income bracket.

3 (F) The requirements of this section may be met utilizing
4 existing sources of information. No additional traffic counts,
5 household surveys, or other sources of data shall be required.

6 (2) A sustainable communities strategy prepared by each
7 metropolitan planning organization as follows:

8 (A) No later than September 30, 2010, the State Air Resources
9 Board shall provide each affected region with greenhouse gas
10 emission reduction targets for the automobile and light truck sector
11 for 2020 and 2035, respectively.

12 (i) No later than January 31, 2009, the state board shall appoint
13 a Regional Targets Advisory Committee to recommend factors to
14 be considered and methodologies to be used for setting greenhouse
15 gas emission reduction targets for the affected regions. The
16 committee shall be composed of representatives of the metropolitan
17 planning organizations, affected air districts, the League of
18 California Cities, the California State Association of Counties,
19 local transportation agencies, and members of the public, including
20 homebuilders, environmental organizations, planning organizations,
21 environmental justice organizations, affordable housing
22 organizations, and others. The advisory committee shall transmit
23 a report with its recommendations to the state board no later than
24 September 30, 2009. In recommending factors to be considered
25 and methodologies to be used, the advisory committee may
26 consider any relevant issues, including, but not limited to, data
27 needs, modeling techniques, growth forecasts, the impacts of
28 regional jobs-housing balance on interregional travel and
29 greenhouse gas emissions, economic and demographic trends, the
30 magnitude of greenhouse gas reduction benefits from a variety of
31 land use and transportation strategies, and appropriate methods to
32 describe regional targets and to monitor performance in attaining
33 those targets. The state board shall consider the report prior to
34 setting the targets.

35 (ii) Prior to setting the targets for a region, the state board shall
36 exchange technical information with the metropolitan planning
37 organization and the affected air district. The metropolitan planning
38 organization may recommend a target for the region. The
39 metropolitan planning organization shall hold at least one public
40 workshop within the region after receipt of the report from the

1 advisory committee. The state board shall release draft targets for
2 each region no later than June 30, 2010.

3 (iii) In establishing these targets, the state board shall take into
4 account greenhouse gas emission reductions that will be achieved
5 by improved vehicle emission standards, changes in fuel
6 composition, and other measures it has approved that will reduce
7 greenhouse gas emissions in the affected regions, and prospective
8 measures the state board plans to adopt to reduce greenhouse gas
9 emissions from other greenhouse gas emission sources as that term
10 is defined in subdivision (i) of Section 38505 of the Health and
11 Safety Code and consistent with the regulations promulgated
12 pursuant to the California Global Warming Solutions Act of 2006
13 (Division 12.5 (commencing with Section 38500) of the Health
14 and Safety Code).

15 (iv) The state board shall update the regional greenhouse gas
16 emission reduction targets every eight years consistent with each
17 metropolitan planning organization's timeframe for updating its
18 regional transportation plan under federal law until 2050. The state
19 board may revise the targets every four years based on changes in
20 the factors considered under clause (iii) above. The state board
21 shall exchange technical information with the Department of
22 Transportation, metropolitan planning organizations, local
23 governments, and affected air districts and engage in a consultative
24 process with public and private stakeholders prior to updating these
25 targets.

26 (v) The greenhouse gas emission reduction targets may be
27 expressed in gross tons, tons per capita, tons per household, or in
28 any other metric deemed appropriate by the state board.

29 (B) Each metropolitan planning organization shall prepare a
30 sustainable communities strategy, subject to the requirements of
31 Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of
32 Federal Regulations, including the requirement to utilize the most
33 recent planning assumptions considering local general plans and
34 other factors. The sustainable communities strategy shall (i)
35 identify the general location of uses, residential densities, and
36 building intensities within the region, (ii) identify areas within the
37 region sufficient to house all the population of the region, including
38 all economic segments of the population, over the course of the
39 planning period of the regional transportation plan taking into
40 account net migration into the region, population growth, household

1 formation and employment growth, (iii) identify areas within the
2 region sufficient to house an eight-year projection of the regional
3 housing need for the region pursuant to Section 65584, (iv) identify
4 a transportation network to service the transportation needs of the
5 region, (v) gather and consider the best practically available
6 scientific information regarding resource areas and farmland in
7 the region as defined in subdivisions (a) and (b) of Section
8 65080.01, (vi) consider the state housing goals specified in Sections
9 65580 and 65581, (vii) set forth a forecasted development pattern
10 for the region, which, when integrated with the transportation
11 network, and other transportation measures and policies, will
12 reduce the greenhouse gas emissions from automobiles and light
13 trucks to achieve, if there is a feasible way to do so, the greenhouse
14 gas emission reduction targets approved by the state board, and
15 (viii) allow the regional transportation plan to comply with Section
16 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). Within
17 the jurisdiction of the Metropolitan Transportation Commission,
18 as defined by Section 66502, the Association of Bay Area
19 Governments shall be responsible for clauses (i), (ii), (iii), (v), and
20 (vi), the Metropolitan Transportation Commission shall be
21 responsible for clauses (iv) and (viii), and the Association of Bay
22 Area Governments and the Metropolitan Transportation
23 Commission shall jointly be responsible for clause (vii).

24 (C) In the region served by the multicounty transportation
25 planning agency described in Section 130004 of the Public Utilities
26 Code, a subregional council of governments and the county
27 transportation commission may work together to propose the
28 sustainable communities strategy and an alternative planning
29 strategy, if one is prepared pursuant to subparagraph (H), for that
30 subregional area. The metropolitan planning organization may
31 adopt a framework for a subregional sustainable communities
32 strategy or a subregional alternative planning strategy to address
33 the intraregional land use, transportation, economic, air quality,
34 and climate policy relationships. The metropolitan planning
35 organization shall include the subregional sustainable communities
36 strategy for that subregion in the regional sustainable communities
37 strategy to the extent consistent with this section and federal law
38 and approve the subregional alternative planning strategy, if one
39 is prepared pursuant to subparagraph (H), for that subregional area
40 to the extent consistent with this section. The metropolitan planning

1 organization shall develop overall guidelines, create public
2 participation plans pursuant to subparagraph (E), ensure
3 coordination, resolve conflicts, make sure that the overall plan
4 complies with applicable legal requirements, and adopt the plan
5 for the region.

6 (D) The metropolitan planning organization shall conduct at
7 least two informational meetings in each county within the region
8 for members of the board of supervisors and city councils on the
9 sustainable communities strategy and alternative planning strategy,
10 if any. The metropolitan planning organization may conduct only
11 one informational meeting if it is attended by representatives of
12 the county board of supervisors and city council members
13 representing a majority of the cities representing a majority of the
14 population in the incorporated areas of that county. Notice of the
15 meeting shall be sent to the clerk of the board of supervisors and
16 to each city clerk. The purpose of the meeting shall be to present
17 a draft of the sustainable communities strategy to the members of
18 the board of supervisors and the city council members in that
19 county and to solicit and consider their input and recommendations.

20 (E) Each metropolitan planning organization shall adopt a public
21 participation plan, for development of the sustainable communities
22 strategy and an alternative planning strategy, if any, that includes
23 all of the following:

24 (i) Outreach efforts to encourage the active participation of a
25 broad range of stakeholder groups in the planning process,
26 consistent with the agency's adopted Federal Public Participation
27 Plan, including, but not limited to, affordable housing advocates,
28 transportation advocates, neighborhood and community groups,
29 environmental advocates, home builder representatives,
30 broad-based business organizations, landowners, commercial
31 property interests, and homeowner associations.

32 (ii) Consultation with congestion management agencies,
33 transportation agencies, and transportation commissions.

34 (iii) Workshops throughout the region to provide the public with
35 the information and tools necessary to provide a clear
36 understanding of the issues and policy choices. At least one
37 workshop shall be held in each county in the region. For counties
38 with a population greater than 500,000, at least three workshops
39 shall be held. Each workshop, to the extent practicable, shall
40 include urban simulation computer modeling to create visual

1 representations of the sustainable communities strategy and the
2 alternative planning strategy.

3 (iv) Preparation and circulation of a draft sustainable
4 communities strategy and an alternative planning strategy, if one
5 is prepared, not less than 55 days before adoption of a final regional
6 transportation plan.

7 (v) At least three public hearings on the draft sustainable
8 communities strategy in the regional transportation plan and
9 alternative planning strategy, if one is prepared. If the metropolitan
10 transportation organization consists of a single county, at least two
11 public hearings shall be held. To the maximum extent feasible, the
12 hearings shall be in different parts of the region to maximize the
13 opportunity for participation by members of the public throughout
14 the region.

15 (vi) A process for enabling members of the public to provide a
16 single request to receive notices, information, and updates.

17 (F) In preparing a sustainable communities strategy, the
18 metropolitan planning organization shall consider spheres of
19 influence that have been adopted by the local agency formation
20 commissions within its region.

21 (G) Prior to adopting a sustainable communities strategy, the
22 metropolitan planning organization shall quantify the reduction in
23 greenhouse gas emissions projected to be achieved by the
24 sustainable communities strategy and set forth the difference, if
25 any, between the amount of that reduction and the target for the
26 region established by the state board.

27 (H) If the sustainable communities strategy, prepared in
28 compliance with subparagraph (B) or (C), is unable to reduce
29 greenhouse gas emissions to achieve the greenhouse gas emission
30 reduction targets established by the state board, the metropolitan
31 planning organization shall prepare an alternative planning strategy
32 to the sustainable communities strategy showing how those
33 greenhouse gas emission targets would be achieved through
34 alternative development patterns, infrastructure, or additional
35 transportation measures or policies. The alternative planning
36 strategy shall be a separate document from the regional
37 transportation plan, but it may be adopted concurrently with the
38 regional transportation plan. In preparing the alternative planning
39 strategy, the metropolitan planning organization:

- 1 (i) Shall identify the principal impediments to achieving the
2 targets within the sustainable communities strategy.
- 3 (ii) May include an alternative development pattern for the
4 region pursuant to subparagraphs (B) to (F), inclusive.
- 5 (iii) Shall describe how the greenhouse gas emission reduction
6 targets would be achieved by the alternative planning strategy, and
7 why the development pattern, measures, and policies in the
8 alternative planning strategy are the most practicable choices for
9 achievement of the greenhouse gas emission reduction targets.
- 10 (iv) An alternative development pattern set forth in the
11 alternative planning strategy shall comply with Part 450 of Title
12 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations,
13 except to the extent that compliance will prevent achievement of
14 the greenhouse gas emission reduction targets approved by the
15 state board.
- 16 (v) For purposes of the California Environmental Quality Act
17 (Division 13 (commencing with Section 21000) of the Public
18 Resources Code), an alternative planning strategy shall not
19 constitute a land use plan, policy, or regulation, and the
20 inconsistency of a project with an alternative planning strategy
21 shall not be a consideration in determining whether a project may
22 have an environmental effect.
- 23 (I) (i) Prior to starting the public participation process adopted
24 pursuant to subparagraph (E), the metropolitan planning
25 organization shall submit a description to the state board of the
26 technical methodology it intends to use to estimate the greenhouse
27 gas emissions from its sustainable communities strategy and, if
28 appropriate, its alternative planning strategy. The state board shall
29 respond to the metropolitan planning organization in a timely
30 manner with written comments about the technical methodology,
31 including specifically describing any aspects of that methodology
32 it concludes will not yield accurate estimates of greenhouse gas
33 emissions, and suggested remedies. The metropolitan planning
34 organization is encouraged to work with the state board until the
35 state board concludes that the technical methodology operates
36 accurately.
- 37 (ii) After adoption, a metropolitan planning organization shall
38 submit a sustainable communities strategy or an alternative
39 planning strategy, if one has been adopted, to the state board for
40 review, including the quantification of the greenhouse gas emission

1 reductions the strategy would achieve and a description of the
2 technical methodology used to obtain that result. Review by the
3 state board shall be limited to acceptance or rejection of the
4 metropolitan planning organization's determination that the strategy
5 submitted would, if implemented, achieve the greenhouse gas
6 emission reduction targets established by the state board. The state
7 board shall complete its review within 60 days.

8 (iii) If the state board determines that the strategy submitted
9 would not, if implemented, achieve the greenhouse gas emission
10 reduction targets, the metropolitan planning organization shall
11 revise its strategy or adopt an alternative planning strategy, if not
12 previously adopted, and submit the strategy for review pursuant
13 to clause (ii). At a minimum, the metropolitan planning
14 organization must obtain state board acceptance that an alternative
15 planning strategy would, if implemented, achieve the greenhouse
16 gas emission reduction targets established for that region by the
17 state board.

18 (J) Neither a sustainable communities strategy nor an alternative
19 planning strategy regulates the use of land, nor, except as provided
20 by subparagraph (I), shall either one be subject to any state
21 approval. Nothing in a sustainable communities strategy shall be
22 interpreted as superseding the exercise of the land use authority
23 of cities and counties within the region. Nothing in this section
24 shall be interpreted to limit the state board's authority under any
25 other provision of law. Nothing in this section shall be interpreted
26 to authorize the abrogation of any vested right whether created by
27 statute or by common law. Nothing in this section shall require a
28 city's or county's land use policies and regulations, including its
29 general plan, to be consistent with the regional transportation plan
30 or an alternative planning strategy. Nothing in this section requires
31 a metropolitan planning organization to approve a sustainable
32 communities strategy that would be inconsistent with Part 450 of
33 Title 23 of, or Part 93 of Title 40 of, the Code of Federal
34 Regulations and any administrative guidance under those
35 regulations. Nothing in this section relieves a public or private
36 entity or any person from compliance with any other local, state,
37 or federal law.

38 (K) Nothing in this section requires projects programmed for
39 funding on or before December 31, 2011, to be subject to the
40 provisions of this paragraph if they (i) are contained in the 2007

1 or 2009 Federal Statewide Transportation Improvement Program,
2 (ii) are funded pursuant to Chapter 12.49 (commencing with
3 Section 8879.20) of Division 1 of Title 2, or (iii) were specifically
4 listed in a ballot measure prior to December 31, 2008, approving
5 a sales tax increase for transportation projects. Nothing in this
6 section shall require a transportation sales tax authority to change
7 the funding allocations approved by the voters for categories of
8 transportation projects in a sales tax measure adopted prior to
9 December 31, 2010. For purposes of this subparagraph, a
10 transportation sales tax authority is a district, as defined in Section
11 7252 of the Revenue and Taxation Code, that is authorized to
12 impose a sales tax for transportation purposes.

13 (L) A metropolitan planning organization, or a regional
14 transportation planning agency not within a metropolitan planning
15 organization, that is required to adopt a regional transportation
16 plan not less than every five years, may elect to adopt the plan not
17 less than every four years. This election shall be made by the board
18 of directors of the metropolitan planning organization or regional
19 transportation planning agency no later than June 1, 2009, or
20 thereafter 54 months prior to the statutory deadline for the adoption
21 of housing elements for the local jurisdictions within the region,
22 after a public hearing at which comments are accepted from
23 members of the public and representatives of cities and counties
24 within the region covered by the metropolitan planning
25 organization or regional transportation planning agency. Notice
26 of the public hearing shall be given to the general public and by
27 mail to cities and counties within the region no later than 30 days
28 prior to the date of the public hearing. Notice of election shall be
29 promptly given to the Department of Housing and Community
30 Development. The metropolitan planning organization or the
31 regional transportation planning agency shall complete its next
32 regional transportation plan within three years of the notice of
33 election.

34 (M) Two or more of the metropolitan planning organizations
35 for Fresno County, Kern County, Kings County, Madera County,
36 Merced County, San Joaquin County, Stanislaus County, and
37 Tulare County may work together to develop and adopt
38 multiregional goals and policies that may address interregional
39 land use, transportation, economic, air quality, and climate
40 relationships. The participating metropolitan planning organizations

1 may also develop a multiregional sustainable communities strategy,
2 to the extent consistent with federal law, or an alternative planning
3 strategy for adoption by the metropolitan planning organizations.
4 Each participating metropolitan planning organization shall
5 consider any adopted multiregional goals and policies in the
6 development of a sustainable communities strategy and, if
7 applicable, an alternative planning strategy for its region.

8 (3) An action element that describes the programs and actions
9 necessary to implement the plan and assigns implementation
10 responsibilities. The action element may describe all transportation
11 projects proposed for development during the 20-year or greater
12 life of the plan. The action element shall consider congestion
13 management programming activities carried out within the region.

14 (4) (A) A financial element that summarizes the cost of plan
15 implementation constrained by a realistic projection of available
16 revenues. The financial element shall also contain
17 recommendations for allocation of funds. A county transportation
18 commission created pursuant to Section 130000 of the Public
19 Utilities Code shall be responsible for recommending projects to
20 be funded with regional improvement funds, if the project is
21 consistent with the regional transportation plan. The first five years
22 of the financial element shall be based on the five-year estimate
23 of funds developed pursuant to Section 14524. The financial
24 element may recommend the development of specified new sources
25 of revenue, consistent with the policy element and action element.

26 (B) The financial element of transportation planning agencies
27 with populations that exceed 200,000 persons may include a project
28 cost breakdown for all projects proposed for development during
29 the 20-year life of the plan that includes total expenditures and
30 related percentages of total expenditures for all of the following:

- 31 (i) State highway expansion.
- 32 (ii) State highway rehabilitation, maintenance, and operations.
- 33 (iii) Local road and street expansion.
- 34 (iv) Local road and street rehabilitation, maintenance, and
35 operation.
- 36 (v) Mass transit, commuter rail, and intercity rail expansion.
- 37 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
38 maintenance, and operations.
- 39 (vii) Pedestrian and bicycle facilities.
- 40 (viii) Environmental enhancements and mitigation.

1 (ix) Research and planning.

2 (x) Other categories.

3 (C) The metropolitan planning organization or county
 4 transportation agency, whichever entity is appropriate, shall
 5 consider financial incentives for cities and counties that have
 6 resource areas or farmland, as defined in Section 65080.01, for
 7 the purposes of, for example, transportation investments for the
 8 preservation and safety of the city street or county road system
 9 and farm to market and interconnectivity transportation needs. The
 10 metropolitan planning organization or county transportation
 11 agency, whichever entity is appropriate, shall also consider
 12 financial assistance for counties to address countywide service
 13 responsibilities in counties that contribute toward the greenhouse
 14 gas emission reduction targets by implementing policies for growth
 15 to occur within their cities.

16 (c) Each transportation planning agency may also include other
 17 factors of local significance as an element of the regional
 18 transportation plan, including, but not limited to, issues of mobility
 19 for specific sectors of the community, including, but not limited
 20 to, senior citizens.

21 (d) Except as otherwise provided in this subdivision, each
 22 transportation planning agency shall adopt and submit, every four
 23 years, an updated regional transportation plan to the California
 24 Transportation Commission and the Department of Transportation.
 25 A transportation planning agency located in a federally designated
 26 air quality attainment area or that does not contain an urbanized
 27 area may at its option adopt and submit a regional transportation
 28 plan every five years. When applicable, the plan shall be consistent
 29 with federal planning and programming requirements and shall
 30 conform to the regional transportation plan guidelines adopted by
 31 the California Transportation Commission. Prior to adoption of
 32 the regional transportation plan, a public hearing shall be held after
 33 the giving of notice of the hearing by publication in the affected
 34 county or counties pursuant to Section 6061.

35 *SEC. 89.5. The heading of Article 2.11 (commencing with*
 36 *Section 65892.13) of Chapter 4 of Division 1 of Title 7 of the*
 37 *Government Code is repealed.*

38

39

~~Article 2.11. Wind Energy~~

40

1 SEC. 90. Section 66704 of the Government Code is amended
2 to read:

3 66704. The authority has, and may exercise, all powers,
4 expressed or implied, that are necessary to carry out the intent and
5 purposes of this title, including, but not limited to, the power to
6 do all of the following:

7 (a) (1) Levy a benefit assessment, special tax, or
8 property-related fee consistent with the requirements of Articles
9 XIII C and XIII D of the California Constitution, including, but
10 not limited to, a benefit assessment levied pursuant to paragraph
11 (2), except that a benefit assessment, special tax, or property-related
12 fee shall not be levied pursuant to this subdivision after December
13 31, 2028.

14 (2) The authority may levy a benefit assessment pursuant to any
15 of the following:

16 (A) The Improvement Act of 1911 (Division 7 (commencing
17 with Section 5000) of the Streets and Highways Code).

18 (B) The Improvement Bond Act of 1915 (Division 10
19 (commencing with Section 8500) of the Streets and Highways
20 Code).

21 (C) The Municipal Improvement Act of 1913 (Division 12
22 (commencing with Section 10000) of the Streets and Highways
23 Code).

24 (D) The Landscaping and Lighting Assessment Act of 1972
25 (Part 2 (commencing with Section 22500) of Division 15 of the
26 Streets and Highways Code), notwithstanding Section 22501 of
27 the Streets and Highways Code.

28 (E) Any other statutory authorization.

29 (b) Apply for and receive grants from federal and state agencies.

30 (c) Solicit and accept gifts, fees, grants, and allocations from
31 public and private entities.

32 (d) Issue revenue bonds for any of the purposes authorized by
33 this title pursuant to the Revenue Bond Law of 1941 (Chapter 6
34 (commencing with Section 54300) of Part 1 of Division 2 of Title
35 5).

36 (e) Incur bond indebtedness, subject to the following
37 requirements:

38 (1) The principal and interest of any bond indebtedness incurred
39 pursuant to this subdivision shall be paid and discharged prior to
40 January 1, 2029.

1 (2) For purposes of incurring bond indebtedness pursuant to
 2 this subdivision, the authority shall comply with the requirements
 3 of Article 11 (commencing with Section 5790) of Chapter 4 of
 4 Division 5 of the Public Resources Code except where those
 5 requirements are in conflict with this provision. For purposes of
 6 this subdivision, all references in Article 11 (commencing with
 7 Section 5790) of Chapter 4 of Division 5 of the Public Resources
 8 Code to a board of directors shall mean the board and all references
 9 to a district shall mean the authority.

10 (3) The total amount of indebtedness incurred pursuant to this
 11 subdivision outstanding at any one time shall not exceed 10 percent
 12 of the authority’s total revenues in the preceding fiscal year.

13 (f) Receive and manage a dedicated revenue source.

14 (g) Deposit or invest moneys of the authority in banks or
 15 financial institutions in the state in accordance with state law.

16 (h) Sue and be sued, except as otherwise provided by law, in
 17 all actions and proceedings, in all courts and tribunals of competent
 18 jurisdiction.

19 (i) Engage counsel and other professional services.

20 (j) Enter into and perform all necessary contracts.

21 (k) Enter into joint powers agreements pursuant to the Joint
 22 Exercise of Powers Act (Chapter 5 (commencing with Section
 23 6500) of Division 7 of Title 1).

24 (l) Hire staff, define their qualifications and duties, and provide
 25 a schedule of compensation for the performance of their duties.

26 (m) Use interim or temporary staff provided by appropriate state
 27 agencies or the Association of Bay Area Governments. A person
 28 who performs duties as interim or temporary staff shall not be
 29 considered an employee of the authority.

30 SEC. 91. Section 70321 of the Government Code is amended
 31 to read:

32 70321. (a) The Judicial Council, in consultation with the
 33 superior court of each county and the county shall enter into
 34 agreements regarding the transfer of responsibility for court
 35 facilities from that county to the Judicial Council. The agreements
 36 shall be executed no later than December 31, 2009. Transfer of
 37 responsibility may occur not earlier than July 1, 2004, and not later
 38 than December 31, 2009. On or before July 1, 2003, each county
 39 shall designate those persons who shall negotiate the agreements
 40 on behalf of the county and shall give the Judicial Council the

1 names of those persons. The name of a person designated by a
2 county to negotiate on its behalf may be changed by the county at
3 any time by providing written notice to the Judicial Council.

4 (b) (1) Notwithstanding any other provision of law and except
5 as provided in paragraph (2), any transfer agreement that is
6 executed on or after October 1, 2008, and on or before March 31,
7 2009, shall contain a requirement that the county pay, in addition
8 to the county facility payment established pursuant to Article 5
9 (commencing with Section 70351), a continuing amount from the
10 date of transfer calculated by multiplying the county facilities
11 payment by the percentage change in the National Implicit Price
12 Deflator for State and Local Government Purchases, as published
13 by the Department of Finance, for the fiscal year in which the
14 transfer agreement is executed as compared to the prior fiscal year.

15 (2) (A) Prior to September 30, 2008, the Administrative Office
16 of the Courts and a county may jointly declare all of the following:

17 (i) That extraordinary circumstances exist that have prohibited
18 successful execution of a transfer agreement.

19 (ii) That all relevant transfer documents have been timely
20 submitted and reviewed by the county.

21 (iii) That the failure to execute a transfer agreement prior to
22 September 30, 2008, is not caused by the action, inaction, or delay
23 on the part of the county.

24 (iv) That the agreement can reasonably be executed on or before
25 December 31, 2008.

26 (B) If that declaration is signed pursuant to subparagraph (A),
27 the application of the multiplier described in paragraph (1) shall
28 be tolled through December 31, 2008. If the transfer agreement is
29 executed by December 31, 2008, the multiplier shall not apply.
30 Justification for a joint declaration shall be limited to either of the
31 following:

32 (i) The failure to execute the transfer agreement was caused by
33 the action, inaction, or delay of a third party, or a party to the
34 transaction other than the county.

35 (ii) The Administrative Office of the Courts and the county have
36 agreed to pursue an alternative method for complying with a
37 seismic liability obligation under the provisions of Section 70324
38 and failure to execute the transfer agreement was caused by unique
39 circumstances directly connected to the implementation of the
40 alternative method authorized by the section.

1 (3) In exercising the authority provided under paragraph (2), a
2 county shall not arbitrarily or capriciously request a joint
3 declaration without a good faith belief that the conditions for that
4 declaration are met, and the Administrative Office of the Courts
5 shall not arbitrarily or capriciously decline to sign a joint
6 declaration described in paragraph (2) if the conditions for that
7 declaration are otherwise met.

8 (4) Copies of any joint declarations described in paragraph (2)
9 will be transmitted upon their signing by both parties to the
10 chairpersons of the Senate and Assembly Committees on Budget,
11 Appropriations, and Judiciary.

12 (c) Notwithstanding any other provision of law, any transfer
13 agreement that is executed on or after April 1, 2009, shall contain
14 a requirement that the county pay, in addition to the county facility
15 payment established pursuant to Article 5 (commencing with
16 Section 70351), a continuing amount from the date of transfer
17 calculated by multiplying the county facilities payment by the
18 year-to-year percentage change in the annual state appropriations
19 limit as described in Section 3 of Article XIII B of the California
20 Constitution for the year in which the transfer agreement is
21 executed.

22 SEC. 92. Section 70374 of the Government Code is amended
23 to read:

24 70374. (a) The Judicial Council shall annually recommend to
25 the Governor and the Legislature the amount proposed to be spent
26 for projects paid for with moneys in the State Court Facilities
27 Construction Fund. The use of the appropriated moneys is subject
28 to subdivision (l) of Section 70391.

29 (b) Acquisition and construction of court facilities shall be
30 subject to the State Building Construction Act of 1955 (Part 10b
31 (commencing with Section 15800) of Division 3 of Title 2) and
32 the Property Acquisition Law (Part 11 (commencing with Section
33 15850) of Division 3 of Title 2), except that (1) notwithstanding
34 any other provision of law, the Administrative Office of the Courts
35 shall serve as an implementing agency upon approval of the
36 Department of Finance, and (2) the provisions of subdivision (e)
37 shall prevail. Acquisition and construction of facilities are not
38 subject to the provisions of the Public Contract Code, but shall be
39 subject to facilities contracting policies and procedures adopted

1 by the Judicial Council after consultation and review by the
2 Department of Finance.

3 (c) Moneys in the State Court Facilities Construction Fund shall
4 only be used for either of the following:

5 (1) The planning, design, construction, rehabilitation, renovation,
6 replacement, leasing, or acquisition of court facilities, as defined
7 by subdivision (d) of Section 70301.

8 (2) The rehabilitation of one or more existing court facilities in
9 conjunction with the construction, acquisition, or financing of one
10 or more new court facilities.

11 (d) (1) Except as provided in Section 70374.2 and paragraph
12 (2) of this subdivision, 25 percent of all moneys collected for the
13 State Court Facilities Construction Fund from any county shall be
14 designated for implementation of trial court projects in that county.
15 The Judicial Council shall determine the local projects after
16 consulting with the trial court in that county and based on the
17 locally approved trial court facilities master plan for that county.

18 (2) Paragraph (1) shall not apply to moneys that have been
19 deposited in the Immediate and Critical Needs Account of the State
20 Court Facilities Construction Fund, established in Section 70371.5.

21 (e) The following provisions shall prevail over provisions of
22 the State Building Construction Act of 1955 (Part 10b
23 commencing with Section 15800) of Division 3 of Title 2) in
24 regard to buildings subject to this section.

25 (1) The Administrative Office of the Courts shall be responsible
26 for the operation, including, but not limited to, the maintenance
27 and repair, of all court facilities whose title is held by the state.
28 Notwithstanding Section 15807, the operation of buildings under
29 this section shall be the responsibility of the Judicial Council.

30 (2) Notwithstanding Section 15808.1, the Judicial Council shall
31 have the responsibility for determining whether a building under
32 the act shall be located within or outside of an existing public
33 transit corridor.

34 (3) The buildings under this section are subject to Section
35 15814.12 concerning cogeneration and alternative energy sources
36 at the request of, or with the consent of, the Judicial Council. Any
37 building acquired by the state pursuant to this section on or before
38 July 1, 2007, is not subject to subdivision (b) of Section 15814.12
39 concerning the acquisition of cogeneration or alternative energy
40 equipment if the building, when acquired, already had cogeneration

1 or alternative energy equipment. Section 15814.17 only applies to
2 buildings to which the Judicial Council has given its consent under
3 subdivision (a) of Section 15814.12.

4 SEC. 93. Section 1760 of the Harbors and Navigation Code is
5 amended to read:

6 1760. (a) For purposes of this section, “council” means the
7 California Marine and Intermodal Transportation System Advisory
8 Council, a regional subunit of the Marine Transportation System
9 National Advisory Council chartered by the federal Secretary of
10 Transportation under the Federal Advisory Council Act (P.L.
11 92-463).

12 (b) The council is requested to do all of the following:

13 (1) Meet, hold public hearings, and compile data on issues that
14 include, but need not be limited to, all of the following:

15 (A) The projected growth of each maritime port in the state.

16 (B) The costs and benefits of developing a coordinated state
17 program to obtain federal funding for maritime port growth,
18 security, and congestion relief.

19 (C) Impacts of maritime port growth on the state’s transportation
20 system.

21 (D) Air pollution caused by movement of goods through the
22 state’s maritime ports, and proposed methods of mitigating or
23 alleviating that pollution.

24 (E) Maritime port security, including, but not limited to, training,
25 readiness, certification of port personnel, exercise planning and
26 conduct, and critical marine transportation system infrastructure
27 protection.

28 (F) A statewide plan for continuing operation of maritime ports
29 in cooperation with the United States Coast Guard, the federal
30 Department of Homeland Security, the California Emergency
31 Management Agency, and the California National Guard, consistent
32 with the state’s emergency management system and the national
33 emergency management system, in the event of a major incident
34 or disruption of port operations in one or more of the state’s
35 maritime ports.

36 (G) State marine transportation policy, legislation, and planning;
37 regional infrastructure project funding; competitiveness;
38 environmental impacts; port safety and security; and any other
39 matters affecting the marine transportation system of the United
40 States within, or affecting, the state.

1 (2) Identify all state agencies that are involved with the
2 development, planning, or coordination of maritime ports in the
3 state.

4 (3) Identify other states that have a statewide port master plan
5 and determine whether that plan has assisted those states in
6 improving their maritime ports.

7 (4) Compile all information obtained pursuant to paragraphs
8 (1) to (3), inclusive, and submit its findings in a report to the
9 Legislature not later than January 1, 2006. The report should
10 include, but need not be limited to, recommendations on methods
11 to better manage the growth of maritime ports and address the
12 environmental impacts of moving goods through those ports.

13 (c) The activities of the council pursuant to this section shall
14 not be funded with appropriations from the General Fund.

15 SEC. 94. Section 442.5 of the Health and Safety Code is
16 amended to read:

17 442.5. When a health care provider makes a diagnosis that a
18 patient has a terminal illness, the health care provider shall, upon
19 the patient's request, provide the patient with comprehensive
20 information and counseling regarding legal end-of-life care options
21 pursuant to this section. When a terminally ill patient is in a health
22 facility, as defined in Section 1250, the health care provider, or
23 medical director of the health facility if the patient's health care
24 provider is not available, may refer the patient to a hospice provider
25 or private or public agencies and community-based organizations
26 that specialize in end-of-life care case management and
27 consultation to receive comprehensive information and counseling
28 regarding legal end-of-life care options.

29 (a) If the patient indicates a desire to receive the information
30 and counseling, the comprehensive information shall include, but
31 not be limited to, the following:

32 (1) Hospice care at home or in a health care setting.

33 (2) A prognosis with and without the continuation of
34 disease-targeted treatment.

35 (3) The patient's right to refusal of or withdrawal from
36 life-sustaining treatment.

37 (4) The patient's right to continue to pursue disease-targeted
38 treatment, with or without concurrent palliative care.

39 (5) The patient's right to comprehensive pain and symptom
40 management at the end of life, including, but not limited to,

1 adequate pain medication, treatment of nausea, palliative
2 chemotherapy, relief of shortness of breath and fatigue, and other
3 clinical treatments useful when a patient is actively dying.

4 (6) The patient’s right to give individual health care instruction
5 pursuant to Section 4670 of the Probate Code, which provides the
6 means by which a patient may provide written health care
7 instruction, such as an advance health care directive, and the
8 patient’s right to appoint a legally recognized health care
9 decisionmaker.

10 (b) The information described in subdivision (a) may, but is not
11 required to, be in writing. Health care providers may utilize
12 information from organizations specializing in end-of-life care
13 that provide information on factsheets and Internet Web sites to
14 convey the information described in subdivision (a).

15 (c) Counseling may include, but is not limited to, discussions
16 about the outcomes for the patient and his or her family, based on
17 the interest of the patient. Information and counseling, as described
18 in subdivision (a), may occur over a series of meetings with the
19 health care provider or others who may be providing the
20 information and counseling based on the patient’s needs.

21 (d) The information and counseling sessions may include a
22 discussion of treatment options in a manner that the patient and
23 his or her family can easily understand. If the patient requests
24 information on the costs of treatment options, including the
25 availability of insurance and eligibility of the patient for coverage,
26 the patient shall be referred to the appropriate entity for that
27 information.

28 SEC. 95. Section 1266 of the Health and Safety Code is
29 amended to read:

30 1266. (a) The Licensing and Certification Division shall be
31 supported entirely by federal funds and special funds by no earlier
32 than the beginning of the 2009–10 fiscal year unless otherwise
33 specified in statute, or unless funds are specifically appropriated
34 from the General Fund in the annual Budget Act or other enacted
35 legislation. For the 2007–08 fiscal year, General Fund support
36 shall be provided to offset licensing and certification fees in an
37 amount of not less than two million seven hundred eighty-two
38 thousand dollars (\$2,782,000).

39 (b) The Licensing and Certification Program fees for the
40 2006–07 fiscal year shall be as follows:

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Type of Facility	Fee	
General Acute Care Hospitals	\$ 134.10	per bed
Acute Psychiatric Hospitals	\$ 134.10	per bed
Special Hospitals	\$ 134.10	per bed
Chemical Dependency Recovery Hospitals	\$ 123.52	per bed
Skilled Nursing Facilities	\$ 202.96	per bed
Intermediate Care Facilities	\$ 202.96	per bed
Intermediate Care Facilities - Developmentally Disabled	\$ 592.29	per bed
Intermediate Care Facilities - Developmentally Disabled - Habilitative	\$1,000.00	per facility
Intermediate Care Facilities - Developmentally Disabled - Nursing	\$1,000.00	per facility
Home Health Agencies	\$2,700.00	per facility
Referral Agencies	\$5,537.71	per facility
Adult Day Health Centers	\$4,650.02	per facility
Congregate Living Health Facilities	\$ 202.96	per bed
Psychology Clinics	\$ 600.00	per facility
Primary Clinics - Community and Free	\$ 600.00	per facility
Specialty Clinics - Rehab Clinics (For profit)	\$2,974.43	per facility
(Nonprofit)	\$ 500.00	per facility
Specialty Clinics - Surgical and Chronic	\$1,500.00	per facility
Dialysis Clinics	\$1,500.00	per facility
Pediatric Day Health/Respite Care	\$ 142.43	per bed
Alternative Birthing Centers	\$2,437.86	per facility
Hospice	\$1,000.00	per facility
Correctional Treatment Centers	\$ 590.39	per bed

(c) Commencing February 1, 2007, and every February 1 thereafter, the department shall publish a list of estimated fees pursuant to this section. The calculation of estimated fees and the publication of the report and list of estimated fees shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) By February 1 of each year, the department shall prepare the following reports and shall make those reports, and the list of

1 estimated fees required to be published pursuant to subdivision
2 (c), available to the public by submitting them to the Legislature
3 and posting them on the department’s Internet Web site:

4 (1) The department shall prepare a report of all costs for
5 activities of the Licensing and Certification Program. At a
6 minimum, this report shall include a narrative of all baseline
7 adjustments and their calculations, a description of how each
8 category of facility was calculated, descriptions of assumptions
9 used in any calculations, and shall recommend Licensing and
10 Certification Program fees in accordance with the following:

11 (A) Projected workload and costs shall be grouped for each fee
12 category.

13 (B) Cost estimates, and the estimated fees, shall be based on
14 the appropriation amounts in the Governor’s proposed budget for
15 the next fiscal year, with and without policy adjustments to the fee
16 methodology.

17 (C) The allocation of program, operational, and administrative
18 overhead, and indirect costs to fee categories shall be based on
19 generally accepted cost allocation methods. Significant items of
20 costs shall be directly charged to fee categories if the expenses can
21 be reasonably identified to the fee category that caused them.
22 Indirect and overhead costs shall be allocated to all fee categories
23 using a generally accepted cost allocation method.

24 (D) The amount of federal funds and General Fund moneys to
25 be received in the budget year shall be estimated and allocated to
26 each fee category based upon an appropriate metric.

27 (E) The fee for each category shall be determined by dividing
28 the aggregate state share of all costs for the Licensing and
29 Certification Program by the appropriate metric for the category
30 of licensure. Amounts actually received for new licensure
31 applications, including change of ownership applications, and late
32 payment penalties, pursuant to Section 1266.5, during each fiscal
33 year shall be calculated and 95 percent shall be applied to the
34 appropriate fee categories in determining Licensing and
35 Certification Program fees for the second fiscal year following
36 receipt of those funds. The remaining 5 percent shall be retained
37 in the fund as a reserve until appropriated.

38 (2) (A) The department shall prepare a staffing and systems
39 analysis to ensure efficient and effective utilization of fees
40 collected, proper allocation of departmental resources to licensing

1 and certification activities, survey schedules, complaint
2 investigations, enforcement and appeal activities, data collection
3 and dissemination, surveyor training, and policy development.

4 (B) The analysis under this paragraph shall be made available
5 to interested persons and shall include all of the following:

6 (i) The number of surveyors and administrative support
7 personnel devoted to the licensing and certification of health care
8 facilities.

9 (ii) The percentage of time devoted to licensing and certification
10 activities for the various types of health facilities.

11 (iii) The number of facilities receiving full surveys and the
12 frequency and number of followup visits.

13 (iv) The number and timeliness of complaint investigations.

14 (v) Data on deficiencies and citations issued, and numbers of
15 citation review conferences and arbitration hearings.

16 (vi) Other applicable activities of the licensing and certification
17 division.

18 (e) (1) The department shall adjust the list of estimated fees
19 published pursuant to subdivision (c) if the annual Budget Act or
20 other enacted legislation includes an appropriation that differs
21 from those proposed in the Governor's proposed budget for that
22 fiscal year.

23 (2) The department shall publish a final fee list, with an
24 explanation of any adjustment, by the issuance of an all-facilities
25 letter, by posting the list on the department's Internet Web site,
26 and by including the final fee list as part of the licensing application
27 package, within 14 days of the enactment of the annual Budget
28 Act. The adjustment of fees and the publication of the final fee list
29 shall not be subject to the rulemaking requirements of Chapter 3.5
30 (commencing with Section 11340) of Part 1 of Division 3 of Title
31 2 of the Government Code.

32 (f) (1) No fees shall be assessed or collected pursuant to this
33 section from any state department, authority, bureau, commission,
34 or officer, unless federal financial participation would become
35 available by doing so and an appropriation is included in the annual
36 Budget Act for that state department, authority, bureau,
37 commission, or officer for this purpose. No fees shall be assessed
38 or collected pursuant to this section from any clinic that is certified
39 only by the federal government and is exempt from licensure under

1 Section 1206, unless federal financial participation would become
2 available by doing so.

3 (2) For the 2006–07 fiscal year, no fee shall be assessed or
4 collected pursuant to this section from any general acute care
5 hospital owned by a health care district with 100 or fewer beds.

6 (g) The Licensing and Certification Program may change annual
7 license expiration renewal dates to provide for efficiencies in
8 operational processes or to provide for sufficient cashflow to pay
9 for expenditures. If an annual license expiration date is changed,
10 the renewal fee shall be prorated accordingly. Facilities shall be
11 provided with a 60-day notice of any change in their annual license
12 renewal date.

13 SEC. 96. Section 1324.21 of the Health and Safety Code is
14 amended to read:

15 1324.21. (a) For facilities licensed under subdivision (c) of
16 Section 1250, there shall be imposed each fiscal year a uniform
17 quality assurance fee per resident day. The uniform quality
18 assurance fee shall be based upon the entire net revenue of all
19 skilled nursing facilities subject to the fee, except an exempt
20 facility, as defined in Section 1324.20, calculated in accordance
21 with subdivision (b).

22 (b) The amount of the uniform quality assurance fee to be
23 assessed per resident day shall be determined based on the
24 aggregate net revenue of skilled nursing facilities subject to the
25 fee, in accordance with the methodology outlined in the request
26 for federal approval required by Section 1324.27 and in regulations,
27 provider bulletins, or other similar instructions. The uniform quality
28 assurance fee shall be calculated as follows:

29 (1) (A) For the rate year 2004–05, the net revenue shall be
30 projected for all skilled nursing facilities subject to the fee. The
31 projection of net revenue shall be based on prior rate-year data.
32 Once determined, the aggregate projected net revenue for all
33 facilities shall be multiplied by 2.7 percent, as determined under
34 the approved methodology, and then divided by the projected total
35 resident days of all providers subject to the fee.

36 (B) Notwithstanding subparagraph (A), the Director of Health
37 Care Services may increase the amount of the fee up to 3 percent
38 of the aggregate projected net revenue if necessary for the
39 implementation of Article 3.8 (commencing with Section 14126)

1 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
2 Code.

3 (2) For the rate year 2005–06 and subsequent rate years through
4 and including the 2010–11 rate year, the net revenue shall be
5 projected for all skilled nursing facilities subject to the uniform
6 quality assurance fee. The projection of net revenue shall be based
7 on the prior rate year’s data. Once determined, the aggregate
8 projected net revenue for all facilities shall be multiplied by 6
9 percent, as determined under the approved methodology, and then
10 divided by the projected total resident days of all providers subject
11 to the fee. The amounts so determined shall be subject to the
12 provisions of subdivision (d).

13 (c) The director may assess and collect a nonuniform fee
14 consistent with the methodology approved pursuant to Section
15 1324.27.

16 (d) In no case shall the fees collected annually pursuant to this
17 article, taken together with applicable licensing fees, exceed the
18 amounts allowable under federal law.

19 (e) If there is a delay in the implementation of this article for
20 any reason, including a delay in the approval of the quality
21 assurance fee and methodology by the federal Centers for Medicare
22 and Medicaid Services, in the 2004–05 rate year or in any other
23 rate year, all of the following shall apply:

24 (1) Any facility subject to the fee may be assessed the amount
25 the facility will be required to pay to the department, but shall not
26 be required to pay the fee until the methodology is approved and
27 Medi-Cal rates are increased in accordance with paragraph (2) of
28 subdivision (a) of Section 1324.28 and the increased rates are paid
29 to facilities.

30 (2) The department may retroactively increase and make
31 payment of rates to facilities.

32 (3) Facilities that have been assessed a fee by the department
33 shall pay the fee assessed within 60 days of the date rates are
34 increased in accordance with paragraph (2) of subdivision (a) of
35 Section 1324.28 and paid to facilities.

36 (4) The department shall accept a facility’s payment
37 notwithstanding that the payment is submitted in a subsequent
38 fiscal year than the fiscal year in which the fee is assessed.

39 SEC. 97. Section 1361.1 of the Health and Safety Code is
40 amended to read:

1 1361.1. (a) It is an unfair business practice for a solicitor,
2 solicitor firm, or representative of a health care service plan to sell,
3 solicit, or negotiate the purchase of health care coverage products
4 by any of the following methods:

5 (1) The use of a marketing technique known as cold lead
6 advertising when marketing a Medicare product. As used in this
7 section, “cold lead advertising” means making use directly or
8 indirectly of a method of marketing that fails to disclose in a
9 conspicuous manner that a purpose of the marketing is health care
10 service plan sales solicitation and that contact will be made by a
11 solicitor, solicitor firm, or representative of a health care service
12 plan.

13 (2) The use of an appointment that was made to discuss a
14 particular Medicare product or to solicit the sale of a particular
15 Medicare product in order to solicit the sale of another Medicare
16 product or other health care coverage products, unless the consumer
17 specifically agrees in advance of the appointment to discuss that
18 other Medicare product or other types of health care coverage
19 products during the same appointment.

20 (b) As used in this section, “Medicare product” includes
21 Medicare Parts A, B, C, and D, and Medicare supplement plans.

22 SEC. 98. Section 1371 of the Health and Safety Code is
23 amended to read:

24 1371. A health care service plan, including a specialized health
25 care service plan, shall reimburse claims or any portion of any
26 claim, whether in state or out of state, as soon as practicable, but
27 no later than 30 working days after receipt of the claim by the
28 health care service plan, or if the health care service plan is a health
29 maintenance organization, 45 working days after receipt of the
30 claim by the health care service plan, unless the claim or portion
31 thereof is contested by the plan in which case the claimant shall
32 be notified, in writing, that the claim is contested or denied, within
33 30 working days after receipt of the claim by the health care service
34 plan, or if the health care service plan is a health maintenance
35 organization, 45 working days after receipt of the claim by the
36 health care service plan. The notice that a claim is being contested
37 shall identify the portion of the claim that is contested and the
38 specific reasons for contesting the claim.

39 If an uncontested claim is not reimbursed by delivery to the
40 claimants’ address of record within the respective 30 or 45 working

1 days after receipt, interest shall accrue at the rate of 15 percent per
2 annum beginning with the first calendar day after the 30- or
3 45-working-day period. A health care service plan shall
4 automatically include in its payment of the claim all interest that
5 has accrued pursuant to this section without requiring the claimant
6 to submit a request for the interest amount. Any plan failing to
7 comply with this requirement shall pay the claimant a ten dollar
8 (\$10) fee.

9 For the purposes of this section, a claim, or portion thereof, is
10 reasonably contested if the plan has not received the completed
11 claim and all information necessary to determine payer liability
12 for the claim, or has not been granted reasonable access to
13 information concerning provider services. Information necessary
14 to determine payer liability for the claim includes, but is not limited
15 to, reports of investigations concerning fraud and
16 misrepresentation, and necessary consents, releases, and
17 assignments, a claim on appeal, or other information necessary for
18 the plan to determine the medical necessity for the health care
19 services provided.

20 If a claim or portion thereof is contested on the basis that the
21 plan has not received all information necessary to determine payer
22 liability for the claim or portion thereof and notice has been
23 provided pursuant to this section, the plan shall have 30 working
24 days or, if the health care service plan is a health maintenance
25 organization, 45 working days after receipt of this additional
26 information to complete reconsideration of the claim. If a plan has
27 received all of the information necessary to determine payer
28 liability for a contested claim and has not reimbursed a claim it
29 has determined to be payable within 30 working days of the receipt
30 of that information, or if the plan is a health maintenance
31 organization, within 45 working days of receipt of that information,
32 interest shall accrue and be payable at a rate of 15 percent per
33 annum beginning with the first calendar day after the 30- or
34 45-working-day period.

35 The obligation of the plan to comply with this section shall not
36 be deemed to be waived when the plan requires its medical groups,
37 independent practice associations, or other contracting entities to
38 pay claims for covered services.

39 SEC. 99. Section 1371.1 of the Health and Safety Code is
40 amended to read:

1 1371.1. (a) Whenever a health care service plan, including a
2 specialized health care service plan, determines that in reimbursing
3 a claim for provider services an institutional or professional
4 provider has been overpaid, and then notifies the provider in
5 writing through a separate notice identifying the overpayment and
6 the amount of the overpayment, the provider shall reimburse the
7 health care service plan within 30 working days of receipt by the
8 provider of the notice of overpayment unless the overpayment or
9 portion thereof is contested by the provider in which case the health
10 care service plan shall be notified, in writing, within 30 working
11 days. The notice that an overpayment is being contested shall
12 identify the portion of the overpayment that is contested and the
13 specific reasons for contesting the overpayment.

14 If the provider does not make reimbursement for an uncontested
15 overpayment within 30 working days after receipt, interest shall
16 accrue at the rate of 10 percent per annum beginning with the first
17 calendar day after the 30-working-day period.

18 (b) (1) This subdivision shall only apply to a health care service
19 plan contract covering dental services or a specialized health care
20 service plan contract covering dental services pursuant to this
21 chapter.

22 (2) The health care service plan's notice of overpayment shall
23 inform the provider how to access the plan's dispute resolution
24 mechanism offered pursuant to subdivision (h) of Section 1367.
25 The notice shall include the name and address to which the dispute
26 should be submitted and a statement that Section 1371.1 of the
27 Health and Safety Code requires a provider to reimburse the plan
28 for an overpayment within 30 working days of receipt by the
29 provider of the notice of overpayment unless the provider contests
30 the overpayment within 30 working days. The notice shall also
31 include information clearly identifying the claim, the name of the
32 patient, the date of service, and a clear explanation of the basis
33 upon which the plan or the plan's capitated provider believes the
34 amount paid on the claim was in excess of the amount due,
35 including interest and penalties on the claim. The notice shall also
36 include a statement that if the provider does not make
37 reimbursement of an uncontested overpayment within 30 working
38 days after receipt of the notice, interest shall accrue at a rate of 10
39 percent per annum.

1 SEC. 100. Section 1373.65 of the Health and Safety Code, as
2 added by Chapter 590 of the Statutes of 2003, is repealed.

3 SEC. 101. Section 1373.95 of the Health and Safety Code, as
4 added by Chapter 590 of the Statutes of 2003, is repealed.

5 SEC. 102. Section 1373.96 of the Health and Safety Code, as
6 added by Chapter 590 of the Statutes of 2003, is repealed.

7 SEC. 103. Section 1522.41 of the Health and Safety Code is
8 amended to read:

9 1522.41. (a) The director, in consultation and collaboration
10 with county placement officials, group home provider
11 organizations, the Director of Mental Health, and the Director of
12 Developmental Services, shall develop and establish a certification
13 program to ensure that administrators of group home facilities
14 have appropriate training to provide the care and services for which
15 a license or certificate is issued.

16 (b) (1) In addition to any other requirements or qualifications
17 required by the department, an administrator of a group home
18 facility shall successfully complete a department-approved
19 certification program, pursuant to subdivision (c), prior to
20 employment. An administrator employed in a group home on the
21 effective date of this section shall meet the requirements of
22 paragraph (2) of subdivision (c).

23 (2) In those cases where the individual is both the licensee and
24 the administrator of a facility, the individual shall comply with all
25 of the licensee and administrator requirements of this section.

26 (3) Failure to comply with this section shall constitute cause for
27 revocation of the license of the facility.

28 (4) The licensee shall notify the department within 10 days of
29 any change in administrators.

30 (c) (1) The administrator certification programs shall require
31 a minimum of 40 hours of classroom instruction that provides
32 training on a uniform core of knowledge in each of the following
33 areas:

34 (A) Laws, regulations, and policies and procedural standards
35 that impact the operations of the type of facility for which the
36 applicant will be an administrator.

37 (B) Business operations.

38 (C) Management and supervision of staff.

39 (D) Psychosocial and educational needs of the facility residents.

40 (E) Community and support services.

1 (F) Physical needs for facility residents.

2 (G) Administration, storage, misuse, and interaction of
3 medication used by facility residents.

4 (H) Resident admission, retention, and assessment procedures,
5 including the right of a foster child to have fair and equal access
6 to all available services, placement, care, treatment, and benefits,
7 and to not be subjected to discrimination or harassment on the
8 basis of actual or perceived race, ethnic group identification,
9 ancestry, national origin, color, religion, sex, sexual orientation,
10 gender identity, mental or physical disability, or HIV status.

11 (I) Nonviolent emergency intervention and reporting
12 requirements.

13 (J) Basic instruction on the existing laws and procedures
14 regarding the safety of foster youth at school and the ensuring of
15 a harassment- and violence-free school environment contained in
16 the School Safety and Violence Prevention Act (Article 3.6
17 commencing with Section 32228) of Chapter 2 of Part 19 of
18 Division 1 of Title 1 of the Education Code).

19 (2) The department shall adopt separate program requirements
20 for initial certification for persons who are employed as group
21 home administrators on the effective date of this section. A person
22 employed as an administrator of a group home facility on the
23 effective date of this section shall obtain a certificate by completing
24 the training and testing requirements imposed by the department
25 within 12 months of the effective date of the regulations
26 implementing this section. After the effective date of this section,
27 these administrators shall meet the requirements imposed by the
28 department on all other group home administrators for certificate
29 renewal.

30 (3) Individuals applying for certification under this section shall
31 successfully complete an approved certification program, pass a
32 written test administered by the department within 60 days of
33 completing the program, and submit to the department the
34 documentation required by subdivision (d) within 30 days after
35 being notified of having passed the test. The department may
36 extend these time deadlines for good cause. The department shall
37 notify the applicant of his or her test results within 30 days of
38 administering the test.

39 (d) The department shall not begin the process of issuing a
40 certificate until receipt of all of the following:

1 (1) A certificate of completion of the administrator training
2 required pursuant to this chapter.

3 (2) The fee required for issuance of the certificate. A fee of one
4 hundred dollars (\$100) shall be charged by the department to cover
5 the costs of processing the application for certification.

6 (3) Documentation from the applicant that he or she has passed
7 the written test.

8 (4) Submission of fingerprints pursuant to Section 1522. The
9 department may waive the submission for those persons who have
10 a current clearance on file.

11 (5) That person is at least 21 years of age.

12 (e) It shall be unlawful for any person not certified under this
13 section to hold himself or herself out as a certified administrator
14 of a group home facility. Any person willfully making any false
15 representation as being a certified administrator or facility manager
16 is guilty of a misdemeanor.

17 (f) (1) Certificates issued under this section shall be renewed
18 every two years and renewal shall be conditional upon the
19 certificate holder submitting documentation of completion of 40
20 hours of continuing education related to the core of knowledge
21 specified in subdivision (c). No more than one-half of the required
22 40 hours of continuing education necessary to renew the certificate
23 may be satisfied through online courses. All other continuing
24 education hours shall be completed in a classroom setting. For
25 purposes of this section, an individual who is a group home facility
26 administrator and who is required to complete the continuing
27 education hours required by the regulations of the State Department
28 of Developmental Services, and approved by the regional center,
29 may have up to 24 of the required continuing education course
30 hours credited toward the 40-hour continuing education
31 requirement of this section. Community college course hours
32 approved by the regional centers shall be accepted by the
33 department for certification.

34 (2) Every administrator of a group home facility shall complete
35 the continuing education requirements of this subdivision.

36 (3) Certificates issued under this section shall expire every two
37 years on the anniversary date of the initial issuance of the
38 certificate, except that any administrator receiving his or her initial
39 certification on or after July 1, 1999, shall make an irrevocable
40 election to have his or her recertification date for any subsequent

1 recertification either on the date two years from the date of issuance
2 of the certificate or on the individual's birthday during the second
3 calendar year following certification. The department shall send
4 a renewal notice to the certificate holder 90 days prior to the
5 expiration date of the certificate. If the certificate is not renewed
6 prior to its expiration date, reinstatement shall only be permitted
7 after the certificate holder has paid a delinquency fee equal to three
8 times the renewal fee and has provided evidence of completion of
9 the continuing education required.

10 (4) To renew a certificate, the certificate holder shall, on or
11 before the certificate expiration date, request renewal by submitting
12 to the department documentation of completion of the required
13 continuing education courses and pay the renewal fee of one
14 hundred dollars (\$100), irrespective of receipt of the department's
15 notification of the renewal. A renewal request postmarked on or
16 before the expiration of the certificate shall be proof of compliance
17 with this paragraph.

18 (5) A suspended or revoked certificate shall be subject to
19 expiration as provided for in this section. If reinstatement of the
20 certificate is approved by the department, the certificate holder,
21 as a condition precedent to reinstatement, shall submit proof of
22 compliance with paragraphs (1) and (2) of subdivision (f), and
23 shall pay a fee in an amount equal to the renewal fee, plus the
24 delinquency fee, if any, accrued at the time of its revocation or
25 suspension. Delinquency fees, if any, accrued subsequent to the
26 time of its revocation or suspension and prior to an order for
27 reinstatement, shall be waived for a period of 12 months to allow
28 the individual sufficient time to complete the required continuing
29 education units and to submit the required documentation.
30 Individuals whose certificates will expire within 90 days after the
31 order for reinstatement may be granted a three-month extension
32 to renew their certificates during which time the delinquency fees
33 shall not accrue.

34 (6) A certificate that is not renewed within four years after its
35 expiration shall not be renewed, restored, reissued, or reinstated
36 except upon completion of a certification training program, passing
37 any test that may be required of an applicant for a new certificate
38 at that time, and paying the appropriate fees provided for in this
39 section.

1 (7) A fee of twenty-five dollars (\$25) shall be charged for the
2 reissuance of a lost certificate.

3 (8) A certificate holder shall inform the department of his or
4 her employment status and change of mailing address within 30
5 days of any change.

6 (g) Unless otherwise ordered by the department, the certificate
7 shall be considered forfeited under either of the following
8 conditions:

9 (1) The department has revoked any license held by the
10 administrator after the department issued the certificate.

11 (2) The department has issued an exclusion order against the
12 administrator pursuant to Section 1558, 1568.092, 1569.58, or
13 1596.8897, after the department issued the certificate, and the
14 administrator did not appeal the exclusion order or, after the appeal,
15 the department issued a decision and order that upheld the
16 exclusion order.

17 (h) (1) The department, in consultation and collaboration with
18 county placement officials, provider organizations, the State
19 Department of Mental Health, and the State Department of
20 Developmental Services, shall establish, by regulation, the program
21 content, the testing instrument, the process for approving
22 certification training programs, and criteria to be used in
23 authorizing individuals, organizations, or educational institutions
24 to conduct certification training programs and continuing education
25 courses. The department may also grant continuing education hours
26 for continuing courses offered by accredited educational institutions
27 that are consistent with the requirements in this section. The
28 department may deny vendor approval to any agency or person in
29 any of the following circumstances:

30 (A) The applicant has not provided the department with evidence
31 satisfactory to the department of the ability of the applicant to
32 satisfy the requirements of vendorization set out in the regulations
33 adopted by the department pursuant to subdivision (j).

34 (B) The applicant person or agency has a conflict of interest in
35 that the person or agency places its clients in group home facilities.

36 (C) The applicant public or private agency has a conflict of
37 interest in that the agency is mandated to place clients in group
38 homes and to pay directly for the services. The department may
39 deny vendorization to this type of agency only as long as there are

1 other vendor programs available to conduct the certification
2 training programs and conduct education courses.

3 (2) The department may authorize vendors to conduct the
4 administrator’s certification training program pursuant to this
5 section. The department shall conduct the written test pursuant to
6 regulations adopted by the department.

7 (3) The department shall prepare and maintain an updated list
8 of approved training vendors.

9 (4) The department may inspect certification training programs
10 and continuing education courses, including online courses, at no
11 charge to the department, to determine if content and teaching
12 methods comply with regulations. If the department determines
13 that any vendor is not complying with the requirements of this
14 section, the department shall take appropriate action to bring the
15 program into compliance, which may include removing the vendor
16 from the approved list.

17 (5) The department shall establish reasonable procedures and
18 timeframes not to exceed 30 days for the approval of vendor
19 training programs.

20 (6) The department may charge a reasonable fee, not to exceed
21 one hundred fifty dollars (\$150) every two years, to certification
22 program vendors for review and approval of the initial 40-hour
23 training program pursuant to subdivision (c). The department may
24 also charge the vendor a fee, not to exceed one hundred dollars
25 (\$100) every two years, for the review and approval of the
26 continuing education courses needed for recertification pursuant
27 to this subdivision.

28 (7) (A) A vendor of online programs for continuing education
29 shall ensure that each online course contains all of the following:

30 (i) An interactive portion in which the participant receives
31 feedback, through online communication, based on input from the
32 participant.

33 (ii) Required use of a personal identification number or personal
34 identification information to confirm the identity of the participant.

35 (iii) A final screen displaying a printable statement, to be signed
36 by the participant, certifying that the identified participant
37 completed the course. The vendor shall obtain a copy of the final
38 screen statement with the original signature of the participant prior
39 to the issuance of a certificate of completion. The signed statement
40 of completion shall be maintained by the vendor for a period of

1 three years and be available to the department upon demand. Any
2 person who certifies as true any material matter pursuant to this
3 clause that he or she knows to be false is guilty of a misdemeanor.

4 (B) Nothing in this subdivision shall prohibit the department
5 from approving online programs for continuing education that do
6 not meet the requirements of subparagraph (A) if the vendor
7 demonstrates to the department's satisfaction that, through
8 advanced technology, the course and the course delivery meet the
9 requirements of this section.

10 (i) The department shall establish a registry for holders of
11 certificates that shall include, at a minimum, information on
12 employment status and criminal record clearance.

13 (j) Subdivisions (b) to (i), inclusive, shall be implemented upon
14 regulations being adopted by the department, by January 1, 2000.

15 (k) Notwithstanding any provision of law to the contrary,
16 vendors approved by the department who exclusively provide
17 either initial or continuing education courses for certification of
18 administrators of a group home facility as defined by regulations
19 of the department, an adult residential facility as defined by
20 regulations of the department, or a residential care facility for the
21 elderly as defined in subdivision (k) of Section 1569.2, shall be
22 regulated solely by the department pursuant to this chapter. No
23 other state or local governmental entity shall be responsible for
24 regulating the activity of those vendors.

25 SEC. 104. Section 1571.71 of the Health and Safety Code is
26 amended and renumbered to read:

27 1597.71. To encourage and facilitate the establishment of
28 employer-sponsored child day care centers, the department shall
29 allow for reasonable waivers of those regulations presenting
30 difficulties to small businesses for licensure, provided that the
31 health and safety of all children is maintained and that the applicant
32 has agreed to alternative methods of meeting the purpose and intent
33 of any regulation waived.

34 SEC. 105. Section 1798.200 of the Health and Safety Code is
35 amended to read:

36 1798.200. (a) (1) (A) Except as provided in paragraph (2),
37 an employer of an EMT-I or EMT-II may conduct investigations,
38 as necessary, and take disciplinary action against an EMT-I or
39 EMT-II who is employed by that employer for conduct in violation
40 of subdivision (c). The employer shall notify the medical director

1 of the local EMS agency that has jurisdiction in the county in which
2 the alleged violation occurred within three days when an allegation
3 has been validated as a potential violation of subdivision (c).

4 (B) Each employer of an EMT-I or EMT-II employee shall
5 notify the medical director of the local EMS agency that has
6 jurisdiction in the county in which a violation related to subdivision
7 (c) occurred within three days after the EMT-I or EMT-II is
8 terminated or suspended for a disciplinary cause, the EMT-I or
9 EMT-II resigns following notification of an impending
10 investigation based upon evidence that would indicate the existence
11 of a disciplinary cause, or the EMT-I or EMT-II is removed from
12 EMT-related duties for a disciplinary cause after the completion
13 of the employer’s investigation.

14 (C) At the conclusion of an investigation, the employer of an
15 EMT-I or EMT-II may develop and implement, in accordance with
16 the guidelines for disciplinary orders, temporary suspensions, and
17 conditions of probation adopted pursuant to Section 1797.184, a
18 disciplinary plan for the EMT-I or EMT-II. Upon adoption of the
19 disciplinary plan, the employer shall submit that plan to the local
20 EMS agency within three working days. The employer’s
21 disciplinary plan may include a recommendation that the medical
22 director of the local EMS agency consider taking action against
23 the holder’s certificate pursuant to paragraph (3).

24 (2) If an EMT-I or EMT-II is not employed by an ambulance
25 service licensed by the Department of the California Highway
26 Patrol or a public safety agency or if that ambulance service or
27 public safety agency chooses not to conduct an investigation
28 pursuant to paragraph (1) for conduct in violation of subdivision
29 (c), the medical director of a local EMS agency shall conduct the
30 investigations, and, upon a determination of disciplinary cause,
31 take disciplinary action as necessary against this EMT-I or EMT-II.
32 At the conclusion of these investigations, the medical director shall
33 develop and implement, in accordance with the recommended
34 guidelines for disciplinary orders, temporary orders, and conditions
35 of probation adopted pursuant to Section 1797.184, a disciplinary
36 plan for the EMT-I or EMT-II. The medical director’s disciplinary
37 plan may include action against the holder’s certificate pursuant
38 to paragraph (3).

39 (3) The medical director of the local EMS agency may, upon a
40 determination of disciplinary cause and in accordance with

1 regulations for disciplinary processes adopted pursuant to Section
2 1797.184, deny, suspend, or revoke any EMT-I or EMT-II
3 certificate issued under this division, or may place any EMT-I or
4 EMT-II certificate holder on probation, upon the finding by that
5 medical director of the occurrence of any of the actions listed in
6 subdivision (c) and the occurrence of one of the following:

7 (A) The EMT-I or EMT-II employer, after conducting an
8 investigation, failed to impose discipline for the conduct under
9 investigation, or the medical director makes a determination that
10 the discipline imposed was not according to the guidelines for
11 disciplinary orders and conditions of probation and the conduct of
12 the EMT-I or EMT-II certificate holder constitutes grounds for
13 disciplinary action against the certificate.

14 (B) Either the employer of an EMT-I or EMT-II further
15 determines, after an investigation conducted under paragraph (1),
16 or the medical director determines after an investigation conducted
17 under paragraph (2), that the conduct requires disciplinary action
18 against the certificate.

19 (4) The medical director of the local EMS agency, after
20 consultation with the employer of an EMT-I or EMT-II, may
21 temporarily suspend, prior to a hearing, any EMT-I or EMT-II
22 certificate or both EMT-I and EMT-II certificates upon a
23 determination that both of the following conditions have been met:

24 (A) The certificate holder has engaged in acts or omissions that
25 constitute grounds for revocation of the EMT-I or EMT-II
26 certificate.

27 (B) Permitting the certificate holder to continue to engage in
28 the certified activity without restriction would pose an imminent
29 threat to the public health or safety.

30 (5) If the medical director of the local EMS agency temporarily
31 suspends a certificate, the local EMS agency shall notify the
32 certificate holder that his or her EMT-I or EMT-II certificate is
33 suspended and shall identify the reasons therefor. Within three
34 working days of the initiation of the suspension by the local EMS
35 agency, the agency and employer shall jointly investigate the
36 allegation in order for the agency to make a determination of the
37 continuation of the temporary suspension. All investigatory
38 information not otherwise protected by law held by the agency
39 and employer shall be shared between the parties via facsimile
40 transmission or overnight mail relative to the decision to

1 temporarily suspend. The local EMS agency shall decide, within
 2 15 calendar days, whether to serve the certificate holder with an
 3 accusation pursuant to Chapter 5 (commencing with Section 11500)
 4 of Part 1 of Division 3 of Title 2 of the Government Code. If the
 5 certificate holder files a notice of defense, the hearing shall be held
 6 within 30 days of the local EMS agency’s receipt of the notice of
 7 defense. The temporary suspension order shall be deemed vacated
 8 if the local EMS agency fails to make a final determination on the
 9 merits within 15 days after the administrative law judge renders
 10 the proposed decision.

11 (6) The medical director of the local EMS agency shall refer,
 12 for investigation and discipline, any complaint received on an
 13 EMT-I or EMT-II to the relevant employer within three days of
 14 receipt of the complaint, pursuant to subparagraph (A) of paragraph
 15 (1) of subdivision (a).

16 (b) The authority may deny, suspend, or revoke any EMT-P
 17 license issued under this division, or may place any EMT-P license
 18 issued under this division, or may place any EMT-P licenseholder
 19 on probation upon the finding by the director of the occurrence of
 20 any of the actions listed in subdivision (c). Proceedings against
 21 any EMT-P license or licenseholder shall be held in accordance
 22 with Chapter 5 (commencing with Section 11500) of Part 1 of
 23 Division 3 of Title 2 of the Government Code.

24 (c) Any of the following actions shall be considered evidence
 25 of a threat to the public health and safety and may result in the
 26 denial, suspension, or revocation of a certificate or license issued
 27 under this division, or in the placement on probation of a certificate
 28 or licenseholder under this division:

29 (1) Fraud in the procurement of any certificate or license under
 30 this division.

31 (2) Gross negligence.

32 (3) Repeated negligent acts.

33 (4) Incompetence.

34 (5) The commission of any fraudulent, dishonest, or corrupt act
 35 that is substantially related to the qualifications, functions, and
 36 duties of prehospital personnel.

37 (6) Conviction of any crime which is substantially related to
 38 the qualifications, functions, and duties of prehospital personnel.
 39 The record of conviction or a certified copy of the record shall be
 40 conclusive evidence of the conviction.

1 (7) Violating or attempting to violate directly or indirectly, or
2 assisting in or abetting the violation of, or conspiring to violate,
3 any provision of this division or the regulations adopted by the
4 authority pertaining to prehospital personnel.

5 (8) Violating or attempting to violate any federal or state statute
6 or regulation that regulates narcotics, dangerous drugs, or
7 controlled substances.

8 (9) Addiction to, the excessive use of, or the misuse of, alcoholic
9 beverages, narcotics, dangerous drugs, or controlled substances.

10 (10) Functioning outside the supervision of medical control in
11 the field care system operating at the local level, except as
12 authorized by any other license or certification.

13 (11) Demonstration of irrational behavior or occurrence of a
14 physical disability to the extent that a reasonable and prudent
15 person would have reasonable cause to believe that the ability to
16 perform the duties normally expected may be impaired.

17 (12) Unprofessional conduct exhibited by any of the following:

18 (A) The mistreatment or physical abuse of any patient resulting
19 from force in excess of what a reasonable and prudent person
20 trained and acting in a similar capacity while engaged in the
21 performance of his or her duties would use if confronted with a
22 similar circumstance. Nothing in this section shall be deemed to
23 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace
24 officer, or a peace officer who is acting in the dual capacity of
25 peace officer and EMT-I, EMT-II, or EMT-P, from using that force
26 that is reasonably necessary to effect a lawful arrest or detention.

27 (B) The failure to maintain confidentiality of patient medical
28 information, except as disclosure is otherwise permitted or required
29 by law in Part 2.53 (commencing with Section 56) of Division 1
30 of the Civil Code.

31 (C) The commission of any sexually related offense specified
32 under Section 290 of the Penal Code.

33 (d) The information shared among EMT-I, EMT-II, and EMT-P
34 employers, medical directors of local EMS agencies, the authority,
35 and EMT-I and EMT-II certifying entities shall be deemed to be
36 an investigative communication that is exempt from public
37 disclosure as a public record pursuant to subdivision (f) of Section
38 6254 of the Government Code. A formal disciplinary action against
39 an EMT-I, EMT-II, or EMT-P shall be considered a public record

1 available to the public, unless otherwise protected from disclosure
2 pursuant to state or federal law.

3 (e) For purposes of this section, “disciplinary cause” means an
4 act that is substantially related to the qualifications, functions, and
5 duties of an EMT-I, EMT-II, or EMT-P and is evidence of a threat
6 to the public health and safety described in subdivision (c).

7 SEC. 106. Section 11752.1 of the Health and Safety Code is
8 amended to read:

9 11752.1. (a) “County board of supervisors” includes county
10 boards of supervisors in the case of counties acting jointly.

11 (b) “Agency” means the California Health and Human Services
12 Agency.

13 (c) “Secretary” means the Secretary of California Health and
14 Human Services.

15 (d) “County plan for alcohol and other drug services” or “county
16 plan” means the county plan, including a budget, adopted by the
17 board of supervisors pursuant to Chapter 4 (commencing with
18 Section 11795) of Part 2.

19 (e) “Advisory board” means the county advisory board on
20 alcohol and other drug problems established at the sole discretion
21 of the county board of supervisors pursuant to Section 11805. If
22 a county does not establish an advisory board, any provision of
23 this chapter relative to the activities, duties, and functions of the
24 advisory board shall be inapplicable to that county.

25 (f) “Alcohol and drug program administrator” means the county
26 program administrator designated pursuant to Section 11800.

27 (g) “State alcohol and other drug program” includes all state
28 alcohol and other drug projects administered by the department
29 and all county alcohol and other drug programs funded under this
30 division.

31 (h) “Health systems agency” means the health planning agency
32 established pursuant to Public Law 93-641.

33 (i) “Alcohol and other drug problems” means problems of
34 individuals, families, and the community that are related to the
35 abuse of alcohol and other drugs.

36 (j) “Alcohol abuser” means anyone who has a problem related
37 to the consumption of alcoholic beverages whether or not it is of
38 a periodic or continuing nature. This definition includes, but is not
39 limited to, persons referred to as “alcoholics” and “drinking
40 drivers.” These problems may be evidenced by substantial

1 impairment to the person’s physical, mental, or social well-being,
2 which impairment adversely affects his or her abilities to function
3 in the community.

4 (k) “Drug abuser” means anyone who has a problem related to
5 the consumption of illicit, illegal, legal, or prescription drugs or
6 over-the-counter medications in a manner other than prescribed,
7 whether or not it is of a periodic or continuing nature. This
8 definition includes, but is not limited to, persons referred to as
9 “drug addicts.” The drug-consumption-related problems of these
10 persons may be evidenced by substantial impairment to the
11 person’s physical, mental, or social well-being, which impairment
12 adversely affects his or her abilities to function in the community.

13 (l) “Alcohol and other drug service” means a service that is
14 designed to encourage recovery from the abuse of alcohol and
15 other drugs and to alleviate or preclude problems in the individual,
16 his or her family, and the community.

17 (m) “Alcohol and other drug abuse program” means a collection
18 of alcohol and other drug services that are coordinated to achieve
19 the specified objectives of this part.

20 (n) “Driving-under-the-influence program,” “DUI program,”
21 or “licensed program” means an alcohol and other drug service
22 that has been issued a valid license by the department to provide
23 services pursuant to Chapter 9 (commencing with Section 11836)
24 of Part 2.

25 (o) “Clients-participants” means recipients of alcohol and other
26 drug prevention, treatment, and recovery program services.

27 (p) “Substance Abuse and Mental Health Services
28 Administration” means that agency of the United States Department
29 of Health and Human Services.

30 SEC. 107. Section 11758.46 of the Health and Safety Code is
31 amended to read:

32 11758.46. (a) For purposes of this section, “drug Medi-Cal
33 services” means all of the following services, administered by the
34 department, and to the extent consistent with state and federal law:

35 (1) Narcotic treatment program services, as set forth in Section
36 11758.42.

37 (2) Day care rehabilitative services.

38 (3) Perinatal residential services for pregnant women and women
39 in the postpartum period.

40 (4) Naltrexone services.

1 (5) Outpatient drug-free services.

2 (b) Upon federal approval of a federal Medicaid state plan
3 amendment authorizing federal financial participation in the
4 following services, and subject to appropriation of funds, “drug
5 Medi-Cal services” shall also include the following services,
6 administered by the department, and to the extent consistent with
7 state and federal law:

8 (1) Notwithstanding subdivision (a) of Section 14132.90 of the
9 Welfare and Institutions Code, day care habilitative services,
10 which, for purposes of this paragraph, are outpatient counseling
11 and rehabilitation services provided to persons with alcohol or
12 other drug abuse diagnoses.

13 (2) Case management services, including supportive services
14 to assist persons with alcohol or other drug abuse diagnoses in
15 gaining access to medical, social, educational, and other needed
16 services.

17 (3) Aftercare services.

18 (c) (1) Annually, the department shall publish procedures for
19 contracting for drug Medi-Cal services with certified providers
20 and for claiming payments, including procedures and specifications
21 for electronic data submission for services rendered.

22 (2) The department, county alcohol and drug program
23 administrators, and alcohol and drug service providers shall
24 automate the claiming process and the process for the submission
25 of specific data required in connection with reimbursement for
26 drug Medi-Cal services, except that this requirement applies only
27 if funding is available from sources other than those made available
28 for treatment or other services.

29 (d) A county or a contractor for the provision of drug Medi-Cal
30 services shall notify the department, within 30 days of the receipt
31 of the county allocation, of its intent to contract, as a component
32 of the single state-county contract, and provide certified services
33 pursuant to Section 11758.42, for the proposed budget year. The
34 notification shall include an accurate and complete budget proposal,
35 the structure of which shall be mutually agreed to by county alcohol
36 and drug program administrators and the department, in the format
37 provided by the department, for specific services, for a specific
38 time period, and including estimated units of service, estimated
39 rate per unit consistent with law and regulations, and total estimated
40 cost for appropriate services.

1 (e) (1) Within 30 days of receipt of the proposal described in
2 subdivision (d), the department shall provide, to counties and
3 contractors proposing to provide drug Medi-Cal services in the
4 proposed budget year, a proposed multiple-year contract, as a
5 component of the single state-county contract, for these services,
6 a current utilization control plan, and appropriate administrative
7 procedures.

8 (2) A county contracting for alcohol and drug services shall
9 receive a single state-county contract for the net negotiated amount
10 and drug Medi-Cal services.

11 (3) Contractors contracting for drug Medi-Cal services shall
12 receive a drug Medi-Cal contract.

13 (f) (1) Upon receipt of a contract proposal pursuant to
14 subdivision (d), a county and a contractor seeking to provide
15 reimbursable drug Medi-Cal services and the department may
16 begin negotiations and the process for contract approval.

17 (2) If a county does not approve a contract by July 1 of the
18 appropriate fiscal year, in accordance with subdivisions (c) to (e),
19 inclusive, the county shall have 30 additional days in which to
20 approve a contract. If the county has not approved the contract by
21 the end of that 30-day period, the department shall contract directly
22 for services within 30 days.

23 (3) Counties shall negotiate contracts only with providers
24 certified to provide reimbursable drug Medi-Cal services and that
25 elect to participate in this program. Upon contract approval by the
26 department, a county shall establish approved contracts with
27 certified providers within 30 days following enactment of the
28 annual Budget Act. A county may establish contract provisions to
29 ensure interim funding pending the execution of final contracts,
30 multiple-year contracts pending final annual approval by the
31 department, and, to the extent allowable under the annual Budget
32 Act, other procedures to ensure timely payment for services.

33 (g) (1) For counties and contractors providing drug Medi-Cal
34 services, pursuant to approved contracts, and that have accurate
35 and complete claims, reimbursement for services from state General
36 Fund moneys shall commence no later than 45 days following the
37 enactment of the annual Budget Act for the appropriate state fiscal
38 year.

39 (2) For counties and contractors providing drug Medi-Cal
40 services, pursuant to approved contracts, and that have accurate

1 and complete claims, reimbursement for services from federal
2 Medicaid funds shall commence no later than 45 days following
3 the enactment of the annual Budget Act for the appropriate state
4 fiscal year.

5 (3) The State Department of Health Care Services and the
6 department shall develop methods to ensure timely payment of
7 drug Medi-Cal claims.

8 (4) The State Department of Health Care Services, in
9 cooperation with the department, shall take steps necessary to
10 streamline the billing system for reimbursable drug Medi-Cal
11 services, to assist the department in meeting the billing provisions
12 set forth in this subdivision.

13 (h) The department shall submit a proposed interagency
14 agreement to the State Department of Health Care Services by
15 May 1 for the following fiscal year. Review and interim approval
16 of all contractual and programmatic requirements, except final
17 fiscal estimates, shall be completed by the State Department of
18 Health Care Services by July 1. The interagency agreement shall
19 not take effect until the annual Budget Act is enacted and fiscal
20 estimates are approved by the State Department of Health Care
21 Services. Final approval shall be completed within 45 days of
22 enactment of the Budget Act.

23 (i) (1) A county or a provider certified to provide reimbursable
24 drug Medi-Cal services, that is contracting with the department,
25 shall estimate the cost of those services by April 1 of the fiscal
26 year covered by the contract, and shall amend current contracts,
27 as necessary, by the following July 1.

28 (2) A county or a provider, except for a provider to whom
29 subdivision (j) applies, shall submit accurate and complete cost
30 reports for the previous fiscal year by November 1, following the
31 end of the fiscal year. The department may settle cost for drug
32 Medi-Cal services, based on the cost report as the final amendment
33 to the approved single state-county contract.

34 (j) Certified narcotic treatment program providers that are
35 exclusively billing the state or the county for services rendered to
36 persons subject to Section 1210.1 or 3063.1 of the Penal Code or
37 Section 11758.42 of this code shall submit accurate and complete
38 performance reports for the previous state fiscal year by November
39 1 following the end of that fiscal year. A provider to which this
40 subdivision applies shall estimate its budgets using the uniform

1 state daily reimbursement rate. The format and content of the
2 performance reports shall be mutually agreed to by the department,
3 the County Alcohol and Drug Program Administrators Association
4 of California, and representatives of the treatment providers.

5 SEC. 108. Section 18931.7 of the Health and Safety Code is
6 amended to read:

7 18931.7. (a) All funds received by the commission under this
8 part shall be deposited in the Building Standards Administration
9 Special Revolving Fund, which is hereby established in the State
10 Treasury.

11 (b) Moneys deposited in the fund shall be available, upon
12 appropriation, to the commission, the department, and the Office
13 of the State Fire Marshal for expenditure in carrying out the
14 provisions of this part, and the provisions of Part 1.5 (commencing
15 with Section 17910) that relate to building standards, as defined
16 in Section 18909, with emphasis placed on the development,
17 adoption, publication, updating, and educational efforts associated
18 with green building standards.

19 SEC. 109. Section 19997 of the Health and Safety Code is
20 amended to read:

21 19997. (a) Any person who violates any of the provisions of
22 this part, a building standard published in the State Building
23 Standards Code relating to factory-built housing, or any other rules
24 or regulations adopted pursuant to this part is guilty of a
25 misdemeanor, punishable by a fine not exceeding one thousand
26 dollars (\$1,000) or by imprisonment not exceeding 30 days, or by
27 both that fine and imprisonment.

28 (b) (1) For violations of Section 19980, 19991.3, or 19991.4,
29 the department shall assess civil penalties in a range between two
30 hundred fifty dollars (\$250) and two thousand dollars (\$2,000).
31 When determining the amount of the assessed civil penalty, the
32 department shall take into consideration whether one or more of
33 the following or similar circumstances apply:

34 (A) The citation includes multiple violations.

35 (B) The cited person has a history of violations of the same or
36 similar provisions of this part and the regulations promulgated
37 under this part.

38 (C) In the judgment of the department, the person has exhibited
39 bad faith or a conflict of interest.

1 (D) In the judgment of the department, the violation is serious
2 or harmful.

3 (E) The citation involves a violation perpetrated against a senior
4 citizen, veteran, or person with disabilities.

5 (F) There is exculpatory evidence that, in the judgment of the
6 department, is material to the elements of the current violation for
7 which the citation is being issued and is significantly related to
8 the degree of fault.

9 (2) If a citation lists more than one violation and each of the
10 violations relates to the same manufacturing facility or client, the
11 total penalty assessment in each citation shall not exceed ten
12 thousand dollars (\$10,000).

13 (3) If a citation lists more than one violation, the amount of
14 assessed civil penalty shall be stated separately for each section
15 violated.

16 (4) Appeals procedures shall be the same as those provided
17 under subdivisions (c) to (e), inclusive, of Section 18021.7.

18 (c) Nothing in this section is intended to preclude remedies
19 available under other provisions of law.

20 SEC. 110. Section 25214.12 of the Health and Safety Code is
21 amended to read:

22 25214.12. For purposes of this article, the following terms have
23 the following meanings:

24 (a) "Authorized official" means a representative of a
25 manufacturer or supplier who is authorized pursuant to the laws
26 of this state to bind the manufacturer or supplier regarding the
27 accuracy of the content of a certificate of compliance.

28 (b) "ASTM" means the American Society for Testing and
29 Materials.

30 (c) "Distribution" means the practice of taking title to a package
31 or a packaging component for promotional purposes or resale. A
32 person involved solely in delivering a package or a packaging
33 component on behalf of a third party is not engaging in distribution.

34 (d) (1) "Intentional introduction" means the act of deliberately
35 utilizing a regulated metal in the formation of a package or
36 packaging component where its continued presence is desired in
37 the final package or packaging component to provide a specific
38 characteristic, appearance, or quality.

39 (2) "Intentional introduction" does not include either of the
40 following:

1 (A) The use of a regulated metal as a processing agent or
2 intermediate to impart certain chemical or physical changes during
3 manufacturing, where the incidental retention of a residue of that
4 metal in the final package or packaging component is not desired
5 or deliberate, if the final package or packaging component is in
6 compliance with subdivision (c) of Section 25214.13.

7 (B) The use of recycled materials as feedstock for the
8 manufacture of new packaging materials, where some portion of
9 the recycled materials may contain amounts of a regulated metal,
10 if the new package or packaging component is in compliance with
11 subdivision (c) of Section 25214.13.

12 (e) “Incidental presence” means the presence of a regulated
13 metal as an unintended or undesired ingredient of a package or
14 packaging component.

15 (f) “Manufacturer” means any person, firm, association,
16 partnership, or corporation producing a package or packaging
17 component.

18 (g) “Manufacturing” means the physical or chemical
19 modification of a material to produce packaging or a packaging
20 component.

21 (h) (1) Except as provided in paragraph (2), “package” means
22 any container, produced either domestically or in a foreign country,
23 providing a means of marketing, protecting, or handling a product
24 from its point of manufacture to its sale or transfer to a consumer,
25 including a unity package, an intermediate package, or a shipping
26 container, as defined in the ASTM specification D996. “Package”
27 also includes, but is not limited to, unsealed receptacles, including
28 carrying cases, crates, cups, pails, rigid foil and other trays,
29 wrappers and wrapping films, bags, and tubs.

30 (2) “Package” does not include a reusable bag, as defined in
31 subdivision (d) of Section 42250 of the Public Resources Code.

32 (i) “Packaging component” means any individual assembled
33 part of a package that is produced either domestically or in a
34 foreign country, including, but not necessarily limited to, any
35 interior or exterior blocking, bracing, cushioning, weatherproofing,
36 exterior strapping, coatings, closures, inks, labels, dyes, pigments,
37 adhesives, stabilizers, or any other additives. Tin-plated steel that
38 meets the ASTM specification A 623 shall be considered as a single
39 package component. Electrogalvanized coated steel and hot dipped
40 coated galvanized steel that meet the ASTM qualifications A 591,

1 A 653, A 879, and A 924 shall be treated in the same manner as
2 tin-plated steel.

3 (j) “Purchaser” means a person who purchases and takes title
4 to a package or a packaging component, from a manufacturer or
5 supplier, for the purpose of packaging a product manufactured,
6 distributed, or sold by the purchaser.

7 (k) “Recycled material” means a material that has been separated
8 from solid waste for the purpose of recycling the material as a
9 secondary material feedstock. Recycled materials include paper,
10 plastic, wood, glass, ceramics, metals, and other materials, except
11 that recycled material does not include a regulated metal that has
12 been separated from other materials into its elemental or other
13 chemical state for recycling as a secondary material feedstock.

14 (l) “Regulated metal” means lead, mercury, cadmium, or
15 hexavalent chromium.

16 (m) (1) “Supplier” means a person who does or is one or more
17 of the following:

18 (A) Sells, offers for sale, or offers for promotional purposes, a
19 package or packaging component that is used by any other person
20 to package a product.

21 (B) Takes title to a package or packaging component, produced
22 either domestically or in a foreign country, that is purchased for
23 resale or promotional purposes.

24 (C) Acts as an intermediary for the purchase of a package or
25 packaging component for resale from a manufacturer located in
26 another country to a purchaser located in this state, and who may
27 receive a commission or a fee on that sale.

28 (D) Listed as the importer of record on a United States Customs
29 Service form for an imported package or packaging component.

30 (2) “Supplier” does not include a person involved solely in
31 delivering a package or packaging component on behalf of a third
32 party.

33 (n) “Toxics in Packaging Clearinghouse” means the Toxics in
34 Packaging Clearinghouse (TPCH) of the Council of State
35 Governments.

36 SEC. 111. Section 25252 of the Health and Safety Code is
37 amended to read:

38 25252. (a) On or before January 1, 2011, the department shall
39 adopt regulations to establish a process to identify and prioritize
40 those chemicals or chemical ingredients in consumer products that

1 may be considered as being a chemical of concern, in accordance
2 with the review process specified in Section 25252.5. The
3 department shall adopt these regulations in consultation with the
4 office and all appropriate state agencies and after conducting one
5 or more public workshops for which the department provides public
6 notice and provides an opportunity for all interested parties to
7 comment. The regulations adopted pursuant to this section shall
8 establish an identification and prioritization process that includes,
9 but is not limited to, all of the following considerations:

- 10 (1) The volume of the chemical in commerce in this state.
11 (2) The potential for exposure to the chemical in a consumer
12 product.
13 (3) Potential effects on sensitive subpopulations, including
14 infants and children.

15 (b) (1) In adopting regulations pursuant to this section, the
16 department shall develop criteria by which chemicals and their
17 alternatives may be evaluated. These criteria shall include, but not
18 be limited to, the traits, characteristics, and endpoints that are
19 included in the clearinghouse data pursuant to Section 25256.1.

20 (2) In adopting regulations pursuant to this section, the
21 department shall reference and use, to the maximum extent feasible,
22 available information from other nations, governments, and
23 authoritative bodies that have undertaken similar chemical
24 prioritization processes, so as to leverage the work and costs
25 already incurred by those entities and to minimize costs and
26 maximize benefits for the state's economy.

27 (3) Paragraph (2) does not require the department, when
28 adopting regulations pursuant to this section, to reference and use
29 only the available information specified in paragraph (2).

30 SEC. 112. Section 25253 of the Health and Safety Code is
31 amended to read:

32 25253. (a) (1) On or before January 1, 2011, the department
33 shall adopt regulations pursuant to this section that establish a
34 process for evaluating chemicals of concern in consumer products,
35 and their potential alternatives, to determine how best to limit
36 exposure or to reduce the level of hazard posed by a chemical of
37 concern, in accordance with the review process specified in Section
38 25252.5. The department shall adopt these regulations in
39 consultation with all appropriate state agencies and after conducting
40 one or more public workshops for which the department provides

1 public notice and provides an opportunity for all interested parties
2 to comment.

3 (2) The regulations adopted pursuant to this section shall
4 establish a process that includes an evaluation of the availability
5 of potential alternatives and potential hazards posed by those
6 alternatives, as well as an evaluation of critical exposure pathways.
7 This process shall include life cycle assessment tools that take into
8 consideration, but shall not be limited to, all of the following:

9 (A) Product function or performance.

10 (B) Useful life.

11 (C) Materials and resource consumption.

12 (D) Water conservation.

13 (E) Water quality impacts.

14 (F) Air emissions.

15 (G) Production, in-use, and transportation energy inputs.

16 (H) Energy efficiency.

17 (I) Greenhouse gas emissions.

18 (J) Waste and end-of-life disposal.

19 (K) Public health impacts, including potential impacts to
20 sensitive subpopulations, including infants and children.

21 (L) Environmental impacts.

22 (M) Economic impacts.

23 (b) The regulations adopted pursuant to this section shall specify
24 the range of regulatory responses that the department may take
25 following the completion of the alternatives analysis, including,
26 but not limited to, any of the following actions:

27 (1) Not requiring any action.

28 (2) Imposing requirements to provide additional information
29 needed to assess a chemical of concern and its potential
30 alternatives.

31 (3) Imposing requirements on the labeling or other type of
32 consumer product information.

33 (4) Imposing a restriction on the use of the chemical of concern
34 in the consumer product.

35 (5) Prohibiting the use of the chemical of concern in the
36 consumer product.

37 (6) Imposing requirements that control access to or limit
38 exposure to the chemical of concern in the consumer product.

1 (7) Imposing requirements for the manufacturer to manage the
2 product at the end of its useful life, including recycling or
3 responsible disposal of the consumer product.

4 (8) Imposing a requirement to fund green chemistry challenge
5 grants where no feasible safer alternative exists.

6 (9) Any other outcome the department determines accomplishes
7 the requirements of this article.

8 (c) The department, in developing the processes and regulations
9 pursuant to this section, shall ensure that the tools available are in
10 a form that allows for ease of use and transparency of application.
11 The department shall also make every feasible effort to devise
12 simplified and accessible tools that consumer product
13 manufacturers, consumer product distributors, product retailers,
14 and consumers can use to make consumer product manufacturing,
15 sales, and purchase decisions.

16 SEC. 113. Section 33684 of the Health and Safety Code is
17 amended to read:

18 33684. (a) (1) This section shall apply to each redevelopment
19 project area that, pursuant to a redevelopment plan that contains
20 the provisions required by Section 33670, meets any of the
21 following:

22 (A) Was adopted on or after January 1, 1994, including later
23 amendments to these redevelopment plans.

24 (B) Was adopted prior to January 1, 1994, but amended after
25 January 1, 1994, to include new territory. For plans amended after
26 January 1, 1994, only the tax increments from territory added by
27 the amendment shall be subject to this section.

28 (2) This section shall apply to passthrough payments, as required
29 by Sections 33607.5 and 33607.7, for the 2003–04 to 2008–09,
30 inclusive, fiscal years. For purposes of this section, a passthrough
31 payment shall be considered the responsibility of an agency in the
32 fiscal year the agency receives the tax increment revenue for which
33 the passthrough payment is required.

34 (3) For purposes of this section, “local educational agency” is
35 a school district, a community college district, or a county office
36 of education.

37 (b) On or before October 1, 2008, each agency shall submit a
38 report to the county auditor and to each affected taxing entity that
39 describes each project area, including its location, purpose, date
40 established, date or dates amended, and statutory and contractual

- 1 passthrough requirements. The report shall specify, by year, for
2 each project area all of the following:
- 3 (1) Gross tax increment received between July 1, 2003, and
4 June 30, 2008, that is subject to a passthrough payment pursuant
5 to Sections 33607.5 and 33607.7, and accumulated gross tax
6 increments through June 30, 2003.
- 7 (2) Total passthrough payments to each taxing entity that the
8 agency deferred pursuant to a subordination agreement approved
9 by the taxing agency under subdivision (e) of Section 33607.5 and
10 the dates these deferred payments will be made.
- 11 (3) Total passthrough payments to each taxing entity that the
12 agency was responsible to make between July 1, 2003, and June
13 30, 2008, pursuant to Sections 33607.5 and 33607.7, excluding
14 payments identified in paragraph (2).
- 15 (4) Total passthrough payments that the agency disbursed to
16 each taxing entity between July 1, 2003, and June 30, 2008,
17 pursuant to Sections 33607.5 and 33607.7.
- 18 (5) Total sums reported in paragraph (4) for each local
19 educational agency that are considered to be property taxes under
20 the provisions of paragraph (4) of subdivision (a) of Section
21 33607.5 and Section 33607.7.
- 22 (6) Total outstanding payment obligations to each taxing entity
23 as of June 30, 2008. This amount shall be calculated by subtracting
24 the amounts reported in paragraph (4) from paragraph (3) and
25 reporting any positive difference.
- 26 (7) Total outstanding overpayments to each taxing entity as of
27 June 30, 2008. This amount shall be calculated by subtracting the
28 amounts reported in paragraph (3) from paragraph (4) and reporting
29 any positive difference.
- 30 (8) The dates on which the agency made payments identified
31 in paragraph (6) or intends to make the payments identified in
32 paragraph (6).
- 33 (9) A revised estimate of the agency's total outstanding
34 passthrough payment obligation to each taxing agency pursuant
35 to paragraph (6) of subdivision (b) and paragraph (6) of subdivision
36 (c) and the dates on which the agency intends to make these
37 payments.
- 38 (c) On or before October 1, 2009, each agency shall submit a
39 report to the county auditor and to each affected taxing entity that
40 describes each project area, including its location, purpose, date

1 established, date or dates amended, and statutory and contractual
2 passthrough requirements. The report shall specify, by year, for
3 each project area all of the following:

4 (1) Gross tax increment received between July 1, 2008, and
5 June 30, 2009, that is subject to a passthrough payment pursuant
6 to Sections 33607.5 and 33607.7.

7 (2) Total passthrough payments to each taxing entity that the
8 agency deferred pursuant to a subordination agreement approved
9 by the taxing entity under subdivision (e) of Section 33607.5 and
10 the dates these deferred payments will be made.

11 (3) Total passthrough payments to each taxing entity that the
12 agency was responsible to make between July 1, 2008, and June
13 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding
14 payments identified in paragraph (2).

15 (4) Total passthrough payments that the agency disbursed to
16 each taxing entity between July 1, 2008, and June 30, 2009,
17 pursuant to Sections 33607.5 and 33607.7.

18 (5) Total sums reported in paragraph (4) for each local
19 educational agency that are considered to be property taxes under
20 the provisions of paragraph (4) of subdivision (a) of Sections
21 33607.5 and 33607.7.

22 (6) Total outstanding payment obligations to each taxing entity
23 as of June 30, 2009. This amount shall be calculated by subtracting
24 the amounts reported in paragraph (4) from paragraph (3) and
25 reporting any positive difference.

26 (7) Total outstanding overpayments to each taxing entity as of
27 June 30, 2009. This amount shall be calculated by subtracting the
28 amounts reported in paragraph (3) from paragraph (4) and reporting
29 any positive difference.

30 (8) The dates on which the agency made payments identified
31 in paragraph (6) or intends to make the payments identified in
32 paragraph (6).

33 (d) If an agency reports pursuant to paragraph (6) of subdivision
34 (b) or paragraph (6) of subdivision (c) that it has an outstanding
35 passthrough payment obligation to any taxing entity, the agency
36 shall submit annual updates to the county auditor on October 1 of
37 each year until such time as the county auditor notifies the agency
38 in writing that the agency's outstanding payment obligations have
39 been fully satisfied. The report shall contain both of the following:

1 (1) A list of payments to each taxing agency and to the
2 Educational Revenue Augmentation Fund pursuant to subdivision
3 (j) that the agency disbursed after the agency’s last update filed
4 pursuant to this subdivision or, if no update has been filed, after
5 the agency’s submission of the reports required pursuant to
6 subdivisions (b) and (c). The list of payments shall include only
7 those payments that address obligations identified pursuant to
8 paragraph (6) of subdivision (b) and paragraph (6) of subdivision
9 (c). The update shall specify the date on which each payment was
10 disbursed.

11 (2) A revised estimate of the agency’s total outstanding
12 passthrough payment obligation to each taxing agency pursuant
13 to paragraph (6) of subdivision (b) and paragraph (6) of subdivision
14 (c) and the dates on which the agency intends to make these
15 payments.

16 (e) The county auditor shall review each agency’s reports
17 submitted pursuant to subdivisions (b) and (c) and any other
18 relevant information to determine whether the county auditor
19 concurs with the information included in the reports.

20 (1) If the county auditor concurs with the information included
21 in a report, the county auditor shall issue a finding of concurrence
22 within 45 days.

23 (2) If the county auditor does not concur with the information
24 included in a report or considers the report to be incomplete, the
25 county auditor shall return the report to the agency within 45 days
26 with information identifying the elements of the report with which
27 the county auditor does not concur or considers to be incomplete.
28 The county auditor shall provide the agency at least 15 days to
29 respond to concerns raised by the county auditor regarding the
30 information contained in the report. An agency may revise a report
31 that has not received a finding of concurrence and resubmit it to
32 the county auditor.

33 (3) If an agency and county auditor do not agree regarding the
34 passthrough requirements of Sections 33607.5 and 33607.7, an
35 agency may submit a report pursuant to subdivisions (b) and (c)
36 and a statement of dispute identifying the issue needing resolution.

37 (4) An agency may amend a report for which the county auditor
38 has issued a finding of concurrence and resubmit the report
39 pursuant to paragraphs (1), (2), and (3) if any of the following
40 apply:

1 (A) The county auditor and agency agree that an issue identified
2 in the agency's statement of dispute has been resolved and the
3 agency proposes to modify the sections of the report to conform
4 with the resolution of the statement of dispute.

5 (B) The county auditor and agency agree that the amount of
6 gross tax increment or the amount of a passthrough payment to a
7 taxing entity included in the report is not accurate.

8 (5) The Controller may revoke a finding of concurrence and
9 direct the agency to resubmit a report to the county auditor pursuant
10 to paragraphs (1), (2), and (3) if the Controller finds significant
11 errors in a report.

12 (f) On or before December 15, 2008, and annually thereafter
13 through 2014, the county auditor shall submit a report to the
14 Controller that includes all of the following:

15 (1) The name of each redevelopment project area in the county
16 for which an agency must submit a report pursuant to subdivision
17 (b) or (c) and information as to whether the county auditor has
18 issued a finding of concurrence regarding the report.

19 (2) A list of the agencies for which the county auditor has issued
20 a finding of concurrence for all project areas identified in paragraph
21 (1).

22 (3) A list of agencies for which the county auditor has not issued
23 a finding of concurrence for all project areas identified in paragraph
24 (1).

25 (4) Using information applicable to agencies listed in paragraph
26 (2), the county auditor shall report all of the following:

27 (A) The total sums reported by each redevelopment agency
28 related to each taxing entity pursuant to paragraphs (1) to (7),
29 inclusive, of subdivision (b) and, on or after December 15, 2009,
30 pursuant to paragraphs (1) to (7), inclusive, of subdivision (c).

31 (B) The names of agencies that have outstanding passthrough
32 payment obligations to a local educational agency that exceed the
33 amount of outstanding passthrough payments to the local
34 educational agency.

35 (C) Summary information regarding agencies' stated plans to
36 pay the outstanding amounts identified in paragraph (6) of
37 subdivision (b) and paragraph (6) of subdivision (c) and the actual
38 amounts that have been deposited into the county Educational
39 Revenue Augmentation Fund pursuant to subdivision (j).

1 (D) All unresolved statements of dispute filed by agencies
2 pursuant to paragraph (3) of subdivision (e) and the county
3 auditor’s analyses supporting the county auditor’s conclusions
4 regarding the issues under dispute.

5 (g) (1) On or before February 1, 2009, and annually thereafter
6 through 2015, the Controller shall submit a report to the Legislative
7 Analyst’s Office and the Department of Finance and provide a
8 copy to the Board of Governors of the California Community
9 Colleges. The report shall provide information as follows:

10 (A) Identify agencies for which the county auditor has issued
11 a finding of concurrence for all reports required under subdivisions
12 (b) and (c).

13 (B) Identify agencies for which the county auditor has not issued
14 a finding of concurrence for all reports required pursuant to
15 subdivision (b) and all reports required pursuant to subdivision (c)
16 or for which a finding of concurrence has been withdrawn by the
17 Controller.

18 (C) Summarize the information reported in paragraph (4) of
19 subdivision (f). This summary shall identify, by local educational
20 agency and by year, the total amount of passthrough payments that
21 each local educational agency received, was entitled to receive,
22 subordinated, or that has not yet been paid, and the portion of these
23 amounts that are considered to be property taxes for purposes of
24 Sections 2558, 42238, and 84751 of the Education Code. The
25 report shall identify, by agency, the amounts that have been
26 deposited to the county Educational Revenue Augmentation Fund
27 pursuant to subdivision (j).

28 (D) Summarize the statements of dispute. The Controller shall
29 specify the status of these disputes, including whether the
30 Controller or other state entity has provided instructions as to how
31 these disputes should be resolved.

32 (E) Identify agencies that have outstanding passthrough payment
33 liabilities to a local educational agency that exceed the amount of
34 outstanding passthrough overpayments to the local educational
35 agency.

36 (2) On or before February 1, 2009, and annually thereafter
37 through 2015, the Controller shall submit a report to the State
38 Department of Education and the Board of Governors of the
39 California Community Colleges. The report shall identify, by local
40 educational agency and by year of receipt, the total amount of

1 passthrough payments that the local educational agency received
2 from redevelopment agencies listed in subparagraph (A) of
3 paragraph (1).

4 (h) (1) On or before April 1, 2009, and annually thereafter until
5 April 1, 2015, the State Department of Education shall do all of
6 the following:

7 (A) Calculate for each school district for the 2003–04 to
8 2007–08, inclusive, fiscal years the difference between 43.3 percent
9 of the amount reported pursuant to paragraph (2) of subdivision
10 (g) and the amount subtracted from each school district’s
11 apportionment pursuant to paragraph (6) of subdivision (h) of
12 Section 42238 of the Education Code.

13 (B) Calculate for each county superintendent of schools for the
14 2003–04 to 2007–08, inclusive, fiscal years the difference between
15 19 percent of the amount reported pursuant to paragraph (2) of
16 subdivision (g) and the amount received pursuant to Sections
17 33607.5 and 33607.7 and subtracted from each county
18 superintendent of schools apportionment pursuant to subdivision
19 (c) of Section 2558 of the Education Code.

20 (C) Notify each school district and county superintendent of
21 schools for which any amount calculated in subparagraph (A) or
22 (B) is nonzero as to the reported change and its resulting impact
23 on apportionments. After April 1, 2009, however, the department
24 shall not notify a school district or county superintendent of schools
25 if the amount calculated in subparagraph (A) or (B) is the same
26 amount as the department calculated in the preceding year.

27 (2) On or before April 1, 2010, and annually thereafter until
28 April 1, 2015, the State Department of Education shall do all of
29 the following:

30 (A) Calculate for each school district for the 2008–09 fiscal
31 year the difference between 43.3 percent of the amount reported
32 pursuant to paragraph (2) of subdivision (g) and the amount
33 subtracted from each school district’s apportionment pursuant to
34 paragraph (6) of subdivision (h) of Section 42238 of the Education
35 Code.

36 (B) Calculate for each county superintendent of schools for the
37 2008–09 fiscal year the difference between 19 percent of the
38 amount reported pursuant to paragraph (2) of subdivision (g) and
39 the amount received pursuant to Sections 33607.5 and 33607.7
40 and subtracted from each county superintendent of schools

1 apportionment pursuant to subdivision (c) of Section 2558 of the
2 Education Code.

3 (C) Notify each school district and county superintendent of
4 schools for which any amount calculated in subparagraph (A) or
5 (B) is nonzero as to the reported change and its resulting impact
6 on revenue limit apportionments. After April 1, 2010, however,
7 the department shall not notify a school district or county
8 superintendent of schools if the amount calculated in subparagraph
9 (A) or (B) is the same amount as the department calculated in the
10 preceding year.

11 (3) For the purposes of Article 3 (commencing with Section
12 41330) of Chapter 3 of Part 24 of Division 3 of Title 2 of the
13 Education Code, the amounts reported to each school district and
14 county superintendent of schools in the notification required
15 pursuant to subparagraph (C) of paragraph (1) and subparagraph
16 (C) of paragraph (2) shall be deemed to be apportionment
17 significant audit exceptions and the date of receipt of that
18 notification shall be deemed to be the date of receipt of the final
19 audit report that includes those audit exceptions.

20 (4) On or before March 1, 2009, and annually thereafter until
21 March 1, 2015, the Board of Governors of the California
22 Community Colleges shall do all of the following:

23 (A) Calculate for each community college district for the
24 2003–04 to 2007–08, inclusive, fiscal years the difference between
25 47.5 percent of the amount reported pursuant to paragraph (2) of
26 subdivision (g) and the amount subtracted from each district’s total
27 revenue owed pursuant to subdivision (d) of Section 84751 of the
28 Education Code.

29 (B) Notify each community college district for which any
30 amount calculated in subparagraph (A) is nonzero as to the reported
31 change and its resulting impact on apportionments. After March
32 1, 2009, however, the board shall not notify a school district or
33 county superintendent of schools if the amount calculated in
34 subparagraph (A) is the same amount as the board calculated in
35 the preceding year.

36 (5) On or before March 1, 2010, and annually thereafter until
37 March 1, 2015, the Board of Governors of the California
38 Community Colleges shall do all of the following:

39 (A) Calculate for each community college district for the
40 2003–04 to 2007–08, inclusive, fiscal years the difference between

1 47.5 percent of the amount reported pursuant to paragraph (2) of
2 subdivision (g) and the amount subtracted from each district's total
3 revenue owed pursuant to subdivision (d) of Section 84751 of the
4 Education Code.

5 (B) Notify each community college district for which any
6 amount calculated in subparagraph (A) is nonzero as to the reported
7 change and its resulting impact on revenue apportionments. After
8 March 1, 2010, however, the board shall not notify a community
9 college district if the amount calculated in subparagraph (A) is the
10 same amount as the board calculated in the preceding year.

11 (6) A community college district may submit documentation to
12 the Board of Governors of the California Community Colleges
13 showing that all or part of the amount reported to the district
14 pursuant to subparagraph (B) of paragraph (4) and subparagraph
15 (B) of paragraph (5) was previously reported to the California
16 Community Colleges for the purpose of the revenue level
17 calculations made pursuant to Section 84751 of the Education
18 Code. Upon acceptance of the documentation, the board of
19 governors shall adjust the amounts calculated in paragraphs (4)
20 and (5) accordingly.

21 (7) The Board of Governors of the California Community
22 Colleges shall make corrections in any amounts allocated in any
23 fiscal year to each community college district for which any amount
24 calculated in paragraphs (4) and (5) is nonzero so as to account
25 for the changes reported pursuant to paragraph (4) of subdivision
26 (b) and paragraph (4) of subdivision (c). The board may make the
27 corrections over a period of time, not to exceed five years.

28 (i) (1) After February 1, 2009, for an agency listed on the most
29 recent Controller's report pursuant to subparagraph (B) or (E) of
30 paragraph (1) of subdivision (g), all of the following shall apply:

31 (A) The agency shall be prohibited from adding new project
32 areas or expanding existing project areas. For purposes of this
33 paragraph, "project area" has the same meaning as in Sections
34 33320.1 to 33320.3, inclusive, and Section 33492.3.

35 (B) The agency shall be prohibited from issuing new bonds,
36 notes, interim certificates, debentures, or other obligations, whether
37 funded, refunded, assumed, or otherwise, pursuant to Article 5
38 (commencing with Section 33640).

39 (C) The agency shall be prohibited from encumbering any funds
40 or expending any moneys derived from any source, except that

1 the agency may encumber funds and expend funds to pay, if any,
2 all of the following:

3 (i) Bonds, notes, interim certificates, debentures, or other
4 obligations issued by an agency before the imposition of the
5 prohibition in subparagraph (B) whether funded, refunded,
6 assumed, or otherwise, pursuant to Article 5 (commencing with
7 Section 33460).

8 (ii) Loans or moneys advanced to the agency, including, but not
9 limited to, loans from federal, state, local agencies, or a private
10 entity.

11 (iii) Contractual obligations that, if breached, could subject the
12 agency to damages or other liabilities or remedies.

13 (iv) Obligations incurred pursuant to Section 33445.

14 (v) Indebtedness incurred pursuant to Section 33334.2 or
15 33334.6.

16 (vi) Obligations incurred pursuant to Section 33401.

17 (vii) An amount, to be expended for the monthly operation and
18 administration of the agency, that may not exceed 75 percent of
19 the average monthly amount spent for those purposes in the fiscal
20 year preceding the fiscal year in which the agency was first listed
21 on the Controller's report pursuant to subparagraph (B) or (E) of
22 paragraph (1) of subdivision (g).

23 (2) After February 1, 2009, an agency identified in subparagraph
24 (B) or (E) of paragraph (1) of subdivision (g) shall incur interest
25 charges on any passthrough payment that is made to a local
26 educational agency more than 60 days after the close of the fiscal
27 year in which the passthrough payment was required. Interest shall
28 be charged at a rate equal to 150 percent of the current Pooled
29 Money Investment Account earnings annual yield rate and shall
30 be charged for the period beginning 60 days after the close of the
31 fiscal year in which the passthrough payment was due through the
32 date that the payment is made.

33 (3) The Controller, with the concurrence of the Director of
34 Finance, may waive the provisions of paragraphs (1) and (2) for
35 a period of up to 12 months if the Controller determines all of the
36 following:

37 (A) The county auditor has identified the agency in its most
38 recent report issued pursuant to paragraph (2) of subdivision (f)
39 as an agency for which the auditor has issued a finding of

1 concurrence for all reports required pursuant to subdivisions (b)
2 and (c).

3 (B) The agency has filed a statement of dispute on an issue or
4 issues that, in the opinion of the Controller, are likely to be resolved
5 in a manner consistent with the agency's position.

6 (C) The agency has made passthrough payments to local
7 educational agencies and the county Educational Revenue
8 Augmentation Fund, or has had funds previously withheld by the
9 auditor, in amounts that would satisfy the agency's passthrough
10 payment requirements to local educational agencies if the issue or
11 issues addressed in the statement of dispute were resolved in a
12 manner consistent with the agency's position.

13 (D) The agency would sustain a fiscal hardship if it made
14 passthrough payments to local educational agencies and the county
15 Educational Revenue Augmentation Fund in the amounts estimated
16 by the county auditor.

17 (j) Notwithstanding any other provision of law, if an agency
18 report submitted pursuant to subdivision (b) or (c) indicates
19 outstanding payment obligations to a local educational agency,
20 the agency shall make these outstanding payments as follows:

21 (1) Of the outstanding payments owed to school districts,
22 including any interest payments pursuant to paragraph (2) of
23 subdivision (i), 43.3 percent shall be deposited in the county
24 Educational Revenue Augmentation Fund and the remainder shall
25 be allocated to the school district or districts.

26 (2) Of the outstanding payments owed to community college
27 districts, including any interest payments pursuant to paragraph
28 (2) of subdivision (i), 47.5 percent shall be deposited in the county
29 Educational Revenue Augmentation Fund and the remainder shall
30 be allocated to the community college district or districts.

31 (3) Of the outstanding payments owed to county offices of
32 education, including any interest payments pursuant to paragraph
33 (2) of subdivision (i), 19 percent shall be deposited in the county
34 Educational Revenue Augmentation Fund and the remainder shall
35 be allocated to the county office of education.

36 (k) (1) This section shall not be construed to increase any
37 allocations of excess, additional, or remaining funds that would
38 otherwise have been allocated to cities, counties, cities and
39 counties, or special districts pursuant to clause (i) of subparagraph
40 (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause

1 (i) of subparagraph (B) of paragraph (4) of subdivision (d) of
2 Section 97.3 of, or Article 4 (commencing with Section 98) of
3 Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation
4 Code had this section not been enacted.

5 (2) Notwithstanding any other provision of law, no funds
6 deposited in the county Educational Revenue Augmentation Fund
7 pursuant to subdivision (j) shall be distributed to a community
8 college district.

9 (l) A county may require an agency to reimburse the county for
10 any expenses incurred by the county in performing the services
11 required by this section.

12 SEC. 114. Section 42310 of the Health and Safety Code is
13 amended to read:

14 42310. (a) A permit shall not be required for any of the
15 following:

16 (1) Any vehicle.

17 (2) Any structure designed for and used exclusively as a
18 dwelling for not more than four families.

19 (3) An incinerator used exclusively in connection with a
20 structure described in paragraph (2).

21 (4) Barbecue equipment that is not used for commercial
22 purposes.

23 (5) (A) Repairs or maintenance not involving structural changes
24 to any equipment for which a permit has been granted.

25 (B) As used in this paragraph, maintenance does not include
26 operation.

27 (b) Nothing in this section shall affect any requirements imposed
28 on a district or a source of air pollution, including, but not limited
29 to, an agricultural source, pursuant to the federal Clean Air Act
30 (42 U.S.C. Sec. 7401 et seq.).

31 SEC. 115. Section 50707 of the Health and Safety Code is
32 amended to read:

33 50707. (a) The department shall issue a request for
34 qualification to select one or more nonprofit entities that qualify
35 under Section 501(c)(3) of the Internal Revenue Code to borrow
36 moneys from the Practitioner Fund to purchase real property for
37 the development or preservation of housing affordable to low- and
38 moderate-income households. The selection of one or more
39 nonprofit entities that qualify shall be made by the department,
40 based on the review and recommendation of the department's Loan

1 and Grant Committee. The loan from the Practitioner Fund will
2 be for a maximum of five years.

3 (b) The entity or entities selected pursuant to subdivision (a)
4 shall demonstrate all of the following:

5 (1) Operation as a nonprofit entity that qualifies under Section
6 501(c)(3) of the Internal Revenue Code with housing development
7 experience in this state and a minimum of 25 employees.

8 (2) Availability of additional funds of at least three times the
9 loan amount.

10 (3) Completion of not less than 2,500 total housing units, with
11 each housing development project having a majority of its units
12 affordable to low- and moderate-income families, as defined in
13 Section 50052.5 or 50053. For purposes of this requirement, the
14 applicant shall be the developer of record with primary day-to-day
15 management and financial responsibility for the development.

16 (4) Sufficient organizational stability and capacity to use the
17 Practitioner Fund to achieve scale economies in the development
18 and preservation of affordable housing. Capacity may be
19 demonstrated by substantial successful experience in affordable
20 housing development and management, including successful
21 partnerships with local government entities.

22 (5) Assets worth at least two hundred million dollars
23 (\$200,000,000), to demonstrate evidence of sufficient net worth
24 for assurance of repayment of the loan.

25 (c) The guidelines and regulations, at a minimum, shall do all
26 of the following:

27 (1) Establish the minimum criteria required of the practitioner
28 and a point system for rating and ranking responses.

29 (2) Provide that any equity not originally contributed by the
30 borrower shall be returned to the state for the purposes of this
31 program, if property acquired with state funds is sold or transferred
32 for purposes other than affordable housing.

33 (3) Give priority to those respondents who demonstrate an
34 immediate need of funds from the committee and who can
35 demonstrate the greatest levels of efficiency and economies of
36 scale.

37 (4) Establish a reasonable practitioner administrative fee.

38 (d) Funds not used by a practitioner within 36 months after their
39 availability to the practitioner shall be disencumbered and
40 transferred to the Loan Fund.

1 (e) The guidelines and regulations shall require that before
2 expending any state funds, the borrower shall obtain binding
3 commitments for at least three dollars (\$3) of nonstate acquisition
4 capital to leverage every dollar of loan funds. To be considered
5 nonstate acquisition capital, those funds shall be committed for a
6 term at least equal to the term of the loan made under this section,
7 and shall be available to be used for the purposes of this section.
8 Equity from the anticipated sale of either federal or state
9 low-income housing tax credits shall not be considered nonstate
10 acquisition capital. If the selected entity is unable to meet these
11 capital leveraging requirements within 180 days after selection,
12 the loan shall be repaid, with accumulated interest, to the
13 department, deposited in the fund, and made available to the next
14 highest rated qualified project sponsor. If, within 270 days after
15 selection, there is no remaining qualified applicant available in the
16 case of the Practitioner Fund, any unexpended funds shall be made
17 available for the purposes of Section 50706.

18 (f) The department shall establish a schedule for the timely
19 expenditure of funds by the applicant. The department may require
20 repayment in the event that a selected entity fails to use the funds
21 consistently with the schedule and the other terms of the program.

22 SEC. 116. Section 52013 of the Health and Safety Code, as
23 amended by Section 1 of Chapter 283 of the Statutes of 2008, is
24 amended to read:

25 52013. (a) “Home mortgage” or “mortgage” means an
26 interest-bearing loan made as provided in this part to a mortgagor,
27 whether originated in the manner provided in subdivision (a) or
28 (b) of Section 52020 that is either of the following:

29 (1) Evidenced by a promissory note and secured by a mortgage,
30 deed of trust, or other security instrument on a home, and that may
31 be, but is not required to be, additionally secured by insurance on
32 the payment of the note for the purposes of purchasing,
33 constructing, or improving a home that meets any of the criteria
34 described in paragraphs (1) to (3), inclusive, of subdivision (b).

35 (2) Evidenced by a promissory note and secured by a mortgage,
36 deed of trust, or other security instrument on a home, and that is
37 federally insured, federally guaranteed, or eligible to be purchased
38 by the Federal National Mortgage Association or the Federal Home
39 Loan and Mortgage Corporation for the purposes of refinancing

1 a home that meets the criteria described in paragraph (3) of
2 subdivision (b).

3 (b) The following criteria apply for the purposes of subdivision
4 (a):

5 (1) Is newly constructed or is being rehabilitated and that, in
6 either case, is located within an area or neighborhood in which the
7 city or county is conducting a housing rehabilitation or code
8 enforcement program, a neighborhood preservation area or
9 concentrated rehabilitation area designated pursuant to this division,
10 an area for which federal funds are being made available, or a
11 residential rehabilitation area as defined in Section 37912.
12 However, a loan may be made for the purchase of a newly
13 constructed home anywhere within the city or county if the
14 purchase is in connection with a program adopted by ordinance
15 of the city or county the purpose of which is to increase the housing
16 supply.

17 (2) Is a home upon which no rehabilitation is being undertaken
18 in connection with any financing pursuant to this part, where the
19 purchaser will not be the first occupant and that is located within
20 the city or county making or purchasing the home mortgage.

21 (3) Is an existing home within the city or county making or
22 purchasing the home mortgage and the owner is, and will be, the
23 occupant of the house.

24 (c) This section shall remain in effect only until January 1, 2012,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2012, deletes or extends that date.

27 SEC. 117. Section 52013 of the Health and Safety Code, as
28 added by Section 2 of Chapter 283 of the Statutes of 2008, is
29 amended to read:

30 52013. (a) "Home mortgage" or "mortgage" means an
31 interest-bearing loan made as provided in this part to a mortgagor,
32 whether originated in the manner provided in subdivision (a) or
33 (b) of Section 52020 that is evidenced by a promissory note and
34 secured by a mortgage, deed of trust, or other security instrument
35 on a home, and that may but is not required to be additionally
36 secured by insurance on the payment of the note for the purpose
37 of purchasing, constructing, or improving a home that meets either
38 of the following criteria:

39 (1) Is newly constructed or is being rehabilitated and that, in
40 either case, is located within an area or neighborhood in which the

1 city or county is conducting a housing rehabilitation or code
 2 enforcement program, a neighborhood preservation area or
 3 concentrated rehabilitation area designated pursuant to this division,
 4 an area for which federal funds are being made available, or a
 5 residential rehabilitation area as defined in Section 37912.
 6 However, a loan may be made for the purchase of a newly
 7 constructed home anywhere within the city or county if the
 8 purchase is in connection with a program adopted by ordinance
 9 of the city or county the purpose of which is to increase the housing
 10 supply.

11 (2) Is a home upon which no rehabilitation is being undertaken
 12 in connection with any financing pursuant to this part, where the
 13 purchaser will not be the first occupant, and that is located within
 14 the city or county making or purchasing the home mortgage.

15 (b) A “home mortgage” or “mortgage” shall not include a loan
 16 to a mortgagor for the purpose of refinancing an existing obligation
 17 of the mortgagor, unless substantial rehabilitation is to be
 18 undertaken in connection with the loan.

19 (c) This section shall become operative January 1, 2012.

20 SEC. 118. Section 103526.5 of the Health and Safety Code is
 21 amended to read:

22 103526.5. (a) Each certified copy of a birth or death record
 23 issued pursuant to Section 103525 shall include the date issued,
 24 the name of the issuing officer, the signature of the issuing officer,
 25 whether that is the State Registrar, local registrar, county recorder,
 26 or county clerk, or an authorized facsimile thereof, and the seal of
 27 the issuing office.

28 (b) All certified copies of birth and death records issued pursuant
 29 to Section 103525 shall be printed on chemically sensitized security
 30 paper that measures 8½ by 11 inches and that has the following
 31 features:

- 32 (1) Intaglio print.
- 33 (2) Latent image.
- 34 (3) Fluorescent, consecutive numbering with matching barcode.
- 35 (4) Microprint line.
- 36 (5) Prismatic printing.
- 37 (6) Watermark.
- 38 (7) Void pantograph.
- 39 (8) Fluorescent security threads.
- 40 (9) Fluorescent fibers.

1 (10) Any other security features deemed necessary by the State
2 Registrar.

3 (c) The State Registrar, local registrars, county recorders, and
4 county clerks shall take precautions to ensure that uniform and
5 consistent standards are used statewide to safeguard the security
6 paper described in subdivision (b), including, but not limited to,
7 the following measures:

8 (1) Security paper shall be maintained under secure conditions
9 so as not to be accessible to the public.

10 (2) A log shall be kept of all visitors allowed in the area where
11 security paper is stored.

12 (3) All spoilage shall be accounted for and subsequently
13 destroyed by shredding on the premises.

14 SEC. 119. Section 107115 of the Health and Safety Code is
15 amended to read:

16 107115. (a) A person seeking to participate in on-the-job
17 training for purposes of paragraph (1) of subdivision (a) of Section
18 106976, or clause (i) of subparagraph (A) of paragraph (4) of
19 subdivision (d) of Section 107155, shall, prior to his or her
20 participation, do both of the following:

21 (1) Register with the department by submitting an application
22 in accordance with subdivision (b).

23 (2) Obtain a receipt of acknowledgment, as described in
24 subdivision (c).

25 (b) The application shall contain all of the following
26 information:

27 (1) The applicant's legal name, mailing address, and telephone
28 number.

29 (2) A statement identifying whether the on-the-job training will
30 be performed to meet the requirements of the American Registry
31 of Radiologic Technologists pursuant to paragraph (1) of
32 subdivision (a) of Section 106976, or to meet the requirements of
33 the Nuclear Medicine Technology Certification Board pursuant
34 to clause (i) of subparagraph (A) of paragraph (4) of subdivision
35 (d) of Section 107155.

36 (3) For those applicants seeking to meet the requirements of
37 paragraph (1) of subdivision (a) of Section 106976, the certificate
38 number as shown on the applicant's Nuclear Medicine Technology
39 Certificate (NMTC) issued by the department pursuant to Article
40 6 (commencing with Section 107150).

1 (4) For those applicants seeking to meet the requirements of
2 clause (i) of subparagraph (A) of paragraph (4) of subdivision (d)
3 of Section 107155, the certificate number as shown on the
4 applicant's Radiologic Technology Certificate (RTC) issued by
5 the department pursuant to Article 5 (commencing with Section
6 106955).

7 (5) A letter from each facility where the applicant will perform
8 the activities described in Section 106976 or 107155, as applicable.
9 The letter shall be on facility letterhead that identifies the facility
10 and its mailing and physical addresses, and shall include all of the
11 following information:

12 (A) The license number as shown on the facility's specific
13 license issued pursuant to the Radiation Control Law (Chapter 8
14 (commencing with Section 114960) of Part 9).

15 (B) Identification of the applicant within the letter and a
16 statement that the individual is approved to perform activities in
17 the facility to meet the clinical competencies required by the
18 organizations identified in Section 106976 or 107155, as applicable.

19 (C) The name, signature, and date of signature of the person
20 providing supervision pursuant to paragraph (2) of subdivision (a)
21 of Section 106976 or clause (ii) of subparagraph (A) of paragraph
22 (4) of subdivision (d) of Section 107155.

23 (6) The signature of the applicant.

24 (7) (A) A fee that is equal to the fee established pursuant to
25 Section 107080 to obtain an RTC, provided that the amount of the
26 fee shall not exceed the reasonable cost of administering this
27 section.

28 (B) All moneys collected pursuant to subparagraph (A) shall
29 be deposited in the Radiation Control Fund established pursuant
30 to Section 114980, and used for the purpose described in that
31 section.

32 (c) (1) Upon receipt of the information and the fee described
33 in subdivision (a), the individual shall be deemed registered, and
34 the department shall issue to the individual an acknowledgment
35 of registration.

36 (2) The registration shall be valid for a period of 24 consecutive
37 months and is not renewable, except as provided in paragraph (3).

38 (3) (A) If the individual fails to obtain a valid computerized
39 tomography certificate issued by the American Registry of
40 Radiologic Technologists or positron emission tomography

1 certificate issued by the Nuclear Medicine Technology Certification
2 Board, as applicable, within the validity period of the registration,
3 the individual may reapply for a one-time six-month extension by
4 resubmitting the application described in subdivision (b). If the
5 individual fails to obtain the appropriate certificate during the
6 extended six-month period, the individual shall immediately cease
7 activities.

8 (B) The department may reauthorize the individual to resume
9 activities upon the department's approval of an action plan
10 submitted by the individual. The action plan shall detail the reasons
11 why the certificate was not obtained, how much of the required
12 competencies have been completed, and what actions will be taken
13 to complete the particular competencies and obtain the certificate.
14 Reauthorization shall not exceed six months.

15 (d) A violation of this section is a misdemeanor pursuant to
16 Sections 107075 or 107170, as applicable, and a violator is subject
17 to discipline pursuant to Section 107065, 107070, or 107165, as
18 applicable.

19 SEC. 120. Section 112877 of the Health and Safety Code, as
20 added by Section 2 of Chapter 694 of the Statutes of 2008, is
21 amended to read:

22 112877. Olive oil grades are defined as follows:

23 (a) "Virgin olive oils" means those oils fit for consumption as
24 they are, obtained from the fruit of the olive tree solely by
25 mechanical or other physical means under conditions, particularly
26 thermal conditions, that do not lead to alterations in the oil, and
27 which have not undergone any treatment other than washing,
28 decanting, centrifuging, and filtration. Virgin olive oils fit for
29 consumption as they are include:

30 (1) "Extra virgin olive oil" means virgin olive oil which has a
31 free acidity, expressed as oleic acid, of not more than 0.8 grams
32 per 100 grams oil, has a peroxide value of not more than 20
33 milliequivalent peroxide oxygen per kilogram oil and meets the
34 sensory standards of extra virgin olive oil as determined by a taste
35 panel certified by the International Olive Council, or, if the
36 International Olive Council ceases to certify taste panels, meets
37 the sensory standards of a taste panel that is operated by the
38 University of California or California State University according
39 to guidelines adopted by the International Olive Council as of
40 2007.

1 (2) “Virgin olive oil” means virgin olive oil which has a free
2 acidity, expressed as oleic acid, of not more than 2 grams per 100
3 grams oil and has a peroxide value of not more than 20
4 milliequivalent peroxide oxygen per kilogram oil.

5 (3) “Ordinary virgin olive oil” means virgin olive oil which has
6 a free acidity, expressed as oleic acid, of not more than 3.3 grams
7 per 100 grams oil and has a peroxide value of not more than 20
8 milliequivalent peroxide oxygen per kilogram oil.

9 (b) “Olive oil” is the oil consisting of a blend of refined olive
10 oil and virgin olive oils fit for consumption as they are as defined
11 in this section. It has a free acidity, expressed as oleic acid, of not
12 more than 1 gram per 100 grams oil.

13 (c) “Refined olive oil” means the olive oil obtained from virgin
14 olive oils by refining methods which do not lead to alterations in
15 the initial glyceridic structure. It has a free acidity, expressed as
16 oleic acid, of not more than 0.3 grams per 100 grams oil.

17 (d) “Olive-pomace oils” means oils obtained by treating olive
18 pomace with solvents or other physical treatments, to the exclusion
19 of oils obtained by reesterification processes and of any mixture
20 with oils of other kinds. They shall be labeled and marketed with
21 the following designations and definitions:

22 (1) “Olive-pomace oil” is the oil comprising the blend of refined
23 olive-pomace oil and virgin olive oils fit for consumption as they
24 are. It has a free acidity, expressed as oleic acid, of not more than
25 1 gram per 100 grams oil. In no case shall this blend be called or
26 labeled “olive oil.”

27 (2) “Refined olive-pomace oil” is the oil obtained from crude
28 olive-pomace oil by refining methods which do not lead to
29 alterations in the initial glyceridic structure. It has a free acidity,
30 expressed as oleic acid, of not more than 0.3 grams per 100 grams
31 oil.

32 (3) “Crude olive-pomace oil” means olive-pomace oil that is
33 intended for refining for use for human consumption or that is
34 intended for technical use.

35 SEC. 121. Section 112877 of the Health and Safety Code, as
36 added by Section 1 of Chapter 695 of the Statutes of 2008, is
37 amended to read:

38 112877. Olive oil grades are defined as follows:

39 (a) “Virgin olive oils” means those oils fit for consumption as
40 they are, obtained from the fruit of the olive tree solely by

1 mechanical or other physical means under conditions, particularly
2 thermal conditions, that do not lead to alterations in the oil, and
3 which have not undergone any treatment other than washing,
4 decanting, centrifuging, and filtration. Virgin olive oils fit for
5 consumption as they are include:

6 (1) “Extra virgin olive oil” means virgin olive oil which has a
7 free acidity, expressed as oleic acid, of not more than 0.8 grams
8 per 100 grams oil, has a peroxide value of not more than 20
9 milliequivalent peroxide oxygen per kilogram oil and would meet
10 the sensory standards of extra virgin olive oil as determined by a
11 taste panel certified by the International Olive Council, or, if the
12 International Olive Council ceases to certify taste panels, would
13 meet the sensory standards of a taste panel that is operated by the
14 University of California or California State University according
15 to guidelines adopted by the International Olive Council as of
16 2007.

17 (2) “Virgin olive oil” means virgin olive oil which has a free
18 acidity, expressed as oleic acid, of not more than 2 grams per 100
19 grams oil and has a peroxide value of not more than 20
20 milliequivalent peroxide oxygen per kilogram oil.

21 (3) “Ordinary virgin olive oil” means virgin olive oil which has
22 a free acidity, expressed as oleic acid, of not more than 3.3 grams
23 per 100 grams oil and has a peroxide value of not more than 20
24 milliequivalent peroxide oxygen per kilogram oil.

25 (b) “Olive oil” is the oil consisting of a blend of refined olive
26 oil and virgin olive oils fit for consumption as they are as defined
27 in this section. It has a free acidity, expressed as oleic acid, of not
28 more than 1 gram per 100 grams oil.

29 (c) “Refined olive oil” means the olive oil obtained from virgin
30 olive oils by refining methods which do not lead to alterations in
31 the initial glyceridic structure. It has a free acidity, expressed as
32 oleic acid, of not more than 0.3 grams per 100 grams oil.

33 (d) “Olive-pomace oils” means oils obtained by treating olive
34 pomace with solvents or other physical treatments, to the exclusion
35 of oils obtained by reesterification processes and of any mixture
36 with oils of other kinds. They shall be labeled and marketed with
37 the following designations and definitions:

38 (1) “Olive-pomace oil” is the oil comprising the blend of refined
39 olive-pomace oil and virgin olive oils fit for consumption as they
40 are. It has a free acidity, expressed as oleic acid, of not more than

1 1 gram per 100 grams oil. In no case shall this blend be called or
2 labeled “olive oil.”

3 (2) “Refined olive-pomace oil” is the oil obtained from crude
4 olive-pomace oil by refining methods which do not lead to
5 alterations in the initial glyceridic structure. It has a free acidity,
6 expressed as oleic acid, of not more than 0.3 grams per 100 grams
7 oil.

8 (3) “Crude olive-pomace oil” means olive-pomace oil that is
9 intended for refining for use for human consumption or that is
10 intended for technical use.

11 SEC. 122. Section 114094 of the Health and Safety Code is
12 amended to read:

13 114094. (a) For purposes of this section, the following
14 definitions shall apply:

15 (1) “Food facility” means a food facility in the state that operates
16 under common ownership or control with at least 19 other food
17 facilities with the same name in the state that offer for sale
18 substantially the same menu items, or operates as a franchised
19 outlet of a parent company with at least 19 other franchised outlets
20 with the same name in the state that offer for sale substantially the
21 same menu items, except that a “food facility” does not include
22 the following:

23 (A) Certified farmer’s markets.

24 (B) Commissaries.

25 (C) Grocery stores, except for separately owned food facilities
26 to which this section otherwise applies that are located in the
27 grocery store. For purposes of this paragraph, “grocery store”
28 means a store primarily engaged in the retail sale of canned food,
29 dry goods, fresh fruits and vegetables, and fresh meats, fish, and
30 poultry. “Grocery store” includes convenience stores.

31 (D) Licensed health care facilities.

32 (E) Mobile support units.

33 (F) Public and private school cafeterias.

34 (G) Restricted food service facilities.

35 (H) Retail stores in which a majority of sales are from a
36 pharmacy, as defined in Section 4037 of the Business and
37 Professions Code.

38 (I) Vending machines.

1 (2) “Calorie content information” means the total number of
2 calories per standard menu item, as that item is usually prepared
3 and offered for sale.

4 (3) “Drive-through” means an area where a customer may
5 provide an order for and receive standard menu items while
6 occupying a motor vehicle.

7 (4) “Menu board” means a posted list or pictorial display of
8 food or beverage items offered for sale by a food facility.

9 (5) “Nutritional information” includes, but is not limited to, all
10 of the following, per standard menu item, as that item is usually
11 prepared and offered for sale:

12 (A) Total number of calories.

13 (B) Total number of grams of carbohydrates.

14 (C) Total number of grams of saturated fat.

15 (D) Total number of milligrams of sodium.

16 (6) “Point of sale” means the location where a customer makes
17 an order.

18 (7) “Standard menu item” means a food or beverage item offered
19 for sale by a food facility through a menu, menu board, or display
20 tag at least 180 days per calendar year, except that “standard menu
21 item” does not include any of the following:

22 (A) A food item that is customized on a case-by-case basis in
23 response to an unsolicited customer request.

24 (B) An alcoholic beverage, the labeling of which is not regulated
25 by the federal Food and Drug Administration.

26 (C) A packaged food otherwise subject to the nutrition labeling
27 requirements of the federal Nutrition Labeling and Education Act
28 of 1990.

29 (D) A food item when served at a consumer self-service salad
30 bar.

31 (E) A food or beverage item when served at a consumer
32 self-service buffet.

33 (8) “Reasonable basis” means any reasonable means recognized
34 by the federal Food and Drug Administration of determining
35 nutritional information, as well as calorie content information, for
36 a standard menu item, as usually prepared and offered for sale,
37 including, but not limited to, nutrient databases and laboratory
38 analyses.

39 (9) “Appetizer” means a food item that is generally served prior
40 to a food item that is generally regarded as the primary food item

1 in a meal. An “appetizer” includes a first course, starter, or small
2 plate.

3 (10) “Dessert” means a food item that is generally served after
4 a food item that is generally regarded as the primary food item in
5 a meal. “Dessert” includes, but is not limited to, cakes, pastries,
6 pies, ice cream and food items that contain ice cream, confections,
7 and other sweets.

8 (b) (1) Commencing July 1, 2009, to December 31, 2010,
9 inclusive, every food facility shall either disclose nutritional
10 information as required by paragraph (2), or comply with
11 subdivision (c) during this period of time.

12 (2) (A) In order to comply with paragraph (1), a food facility
13 that does not provide sit-down service shall disclose the
14 information in a clear and conspicuous manner on a brochure that
15 is made available at the point of sale prior to or during the
16 placement of an order. A food facility that provides sit-down
17 service shall provide the nutritional information in a clear and
18 conspicuous size and typeface on at least one of the following:

19 (i) A brochure available on the table.

20 (ii) A menu next to each standard menu item.

21 (iii) A menu, under an index section that is separate from the
22 listing of standard menu items.

23 (iv) A menu insert.

24 (v) A table tent on the table.

25 (B) Notwithstanding subparagraph (A), a food facility that has
26 a drive-through area and uses a menu board to display or list
27 standard menu items at the point of sale shall, for purposes of the
28 drive-through area only, disclose the nutritional information in a
29 clear and conspicuous manner on a brochure that is available upon
30 request, and shall conspicuously display a notice at the point of
31 sale that reads: “NUTRITION INFORMATION IS AVAILABLE
32 UPON REQUEST” or other similar statement that indicates the
33 disclosure of nutrition information is available upon request.

34 (c) (1) On and after January 1, 2011, every food facility that
35 provides a menu shall disclose calorie content information for a
36 standard menu item next to the item on the menu in a size and
37 typeface that is clear and conspicuous.

38 (2) On and after January 1, 2011, every food facility that uses
39 an indoor menu board shall disclose calorie content information

1 for a standard menu item next to the item on the menu board in a
2 size and typeface that is clear and conspicuous.

3 (3) On and after January 1, 2011, every food facility that uses
4 a display tag as an alternative to a menu or menu board to describe
5 a standard menu item that is displayed for sale in a display case
6 within the food facility shall disclose calorie content information
7 for that standard menu item on the display tag for that item in a
8 size and typeface that is clear and conspicuous.

9 (4) On and after January 1, 2011, every food facility that has a
10 drive-through area and uses a menu board to display or list standard
11 menu items at the point of sale shall, for purposes of the
12 drive-through area only, disclose the nutritional information for
13 each standard menu item in a clear and conspicuous manner on a
14 brochure that is available upon request, and shall clearly and
15 conspicuously display a notice at the point of sale that reads:
16 “NUTRITION INFORMATION IS AVAILABLE UPON
17 REQUEST” or other similar statement that indicates the disclosure
18 of nutrition information upon request. If a food facility subject to
19 this paragraph discloses nutritional information in the manner
20 described in subparagraph (B) of paragraph (2) of subdivision (b),
21 the food facility shall be deemed to be in compliance with this
22 paragraph.

23 (d) For purposes of subdivision (c), the disclosure of calorie
24 content information on a menu or menu board next to a standard
25 menu item that is a combination of at least two standard menu
26 items on the menu or menu board, shall, based upon all possible
27 combinations for that standard menu item, include both the
28 minimum amount of calories for the calorie count information and
29 the maximum amount of calories for the calorie count information.
30 If there is only one possible total amount of calories, then this total
31 shall be disclosed.

32 (e) For purposes of subdivision (c), the disclosure of calorie
33 content information on a menu or menu board next to a standard
34 menu item that is not an appetizer or dessert, but is intended to
35 serve more than one individual, shall include both of the following:

36 (1) The number of individuals intended to be served by the
37 standard menu item.

38 (2) The calorie content information per individual serving. If
39 the standard menu item is a combination of at least two standard
40 menu items, this disclosure shall, based upon all possible

1 combinations for that standard menu item, include both the
2 minimum amount of calories for the calorie count information and
3 the maximum amount of calories. If there is only one possible total
4 amount of calories, then this total shall be disclosed.

5 (f) The nutritional information and calorie content information
6 required by this section shall be determined on a reasonable basis.
7 A reasonable basis determination of nutritional information and
8 calorie content information shall be required only once per standard
9 menu item, provided that portion size is reasonably consistent and
10 the food facility follows a standardized recipe and trains to a
11 consistent method of preparation.

12 (g) (1) Every brochure provided pursuant to this section shall
13 include the statement: “Recommended limits for a 2,000 calorie
14 daily diet are 20 grams of saturated fat and 2,300 milligrams of
15 sodium.”

16 (2) Menus and menu boards may include a disclaimer that
17 indicates that there may be variations in nutritional content across
18 servings, based on variations in overall size and quantities of
19 ingredients, and based on special ordering.

20 (h) This section shall not be construed to create or enhance any
21 claim, right of action, or civil liability that did not previously exist
22 under state law or limit any claim, right of action, or civil liability
23 that otherwise exists under state law. The only enforcement
24 mechanism of the section is the local enforcement agency.

25 (i) This section shall not be construed to preclude any food
26 facility from voluntarily providing nutritional information in
27 addition to the requirements of this section.

28 (j) To the extent consistent with federal law, this section, as
29 well as any other state law that regulates the disclosure of
30 nutritional information, is a matter of statewide concern and
31 occupies the whole field of regulation regarding the disclosure of
32 nutritional information by a food facility. No ordinance or
33 regulation of a local government shall regulate the dissemination
34 of nutritional information by a food facility. Any ordinance or
35 regulation that violates this prohibition is void and shall have no
36 force or effect.

37 (k) Commencing July 1, 2009, a food facility that violates this
38 section is guilty of an infraction, punishable by a fine of not less
39 than fifty dollars (\$50) or more than five hundred dollars (\$500),
40 which may be assessed by a local enforcement agency. However,

1 a food facility may not be found to violate this section more than
2 once during an inspection visit. Notwithstanding Section 114395,
3 a violation of this section is not a misdemeanor.

4 (I) If any provision of this section, or the application thereof, is
5 for any reason held invalid, ineffective, or unconstitutional by a
6 court of competent jurisdiction, the remainder of this section, shall
7 not be affected thereby, and to this end, the provisions of this
8 section are severable.

9 SEC. 123. Section 130501 of the Health and Safety Code is
10 amended to read:

11 130501. For purposes of this division, the following definitions
12 shall apply:

13 (a) “Average manufacturer’s price” has the same meaning as
14 this term is defined in Section 1927(k)(1) of the federal Social
15 Security Act (42 U.S.C. Sec. 1396r-8(k)(1).

16 (b) “Department” means the State Department of Health Care
17 Services.

18 (c) “Eligible Californian” means a resident of the state who
19 meets any one or more of the following:

20 (1) Has total unreimbursed medical expenses equal to at least
21 10 percent of his or her family’s income where the family’s income
22 does not exceed the state median family income.

23 (2) To the extent allowed by federal law, is enrolled in the
24 Medicare Program, but whose prescription drugs are not covered
25 by the Medicare Program.

26 (3) Has a family income that does not exceed 300 percent of
27 the federal poverty guidelines and who does not have outpatient
28 prescription drug coverage paid for by any one of the following:

29 (A) In whole by the Medi-Cal program.

30 (B) In whole or in part by the Healthy Families Program or other
31 programs funded by the state.

32 (C) In whole or in part by another third-party payer, provided
33 that the individual has not reached the annual limit on his or her
34 prescription drug coverage.

35 (4) For purposes of this subdivision, the cost of drugs provided
36 under this division is considered an expense incurred by the family
37 for eligibility determination purposes.

38 (d) “Fund” means the California Discount Prescription Drug
39 Program Fund.

- 1 (e) “Manufacturer” means a drug manufacturer as defined in
2 Section 4033 of the Business and Professions Code.
- 3 (f) “Manufacturer’s rebate” means the rebate for an individual
4 drug or aggregate rebate for a group of drugs necessary to make
5 the price for the drug ingredients equal to or less than the applicable
6 benchmark price.
- 7 (g) “Medicaid best price” has the same meaning as this term is
8 defined in Section 1927(c)(1)(C) of the Social Security Act (42
9 U.S.C. Sec. 1396r-8(c)(1)(C)).
- 10 (h) “Multiple-source drug” has the same meaning as this term
11 is defined in Section 1927(k)(7) of the Social Security Act (42
12 U.S.C. Sec. 1396r-8(k)(7)).
- 13 (i) “National drug code” or “NDC” means the unique 10-digit,
14 three-segment number assigned to each drug product listed under
15 Section 510 of the federal Food, Drug, and Cosmetic Act (21
16 U.S.C. Sec. 360). This number identifies the labeler or vendor,
17 product, and trade package.
- 18 (j) “National sales data” means prescription data obtained from
19 a national-level prescription tracking service.
- 20 (k) “Participating manufacturer” means a drug manufacturer
21 that has contracted with the department to provide an individual
22 drug or group of drugs for the program.
- 23 (l) “Participating pharmacy” means a pharmacy that has
24 executed a pharmacy provider agreement with the department for
25 this program.
- 26 (m) “Pharmacy contract rate” means the negotiated per
27 prescription reimbursement rate for drugs dispensed to eligible
28 Californians. The department shall establish a single, basic
29 pharmacy rate, but may contract at different rates with pharmacies
30 in order to provide access throughout the state.
- 31 (n) “Prescription drug” means any drug that bears the legend:
32 “Caution: federal law prohibits dispensing without prescription,”
33 “R only,” or words of similar import.
- 34 (o) “Private discount drug program” means a prescription drug
35 discount card or manufacturer patient assistance program that
36 provides discounted or free drugs to eligible individuals. For the
37 purposes of this division, a private discount drug program is not
38 considered insurance or a third-party-payer program.
- 39 (p) “Program” means the California Discount Prescription Drug
40 Program.

1 (q) “Single-source drug” has the same meaning as this term and
2 the term innovator multiple-source drug are defined in Section
3 1927(k)(7) of the Social Security Act (42 U.S.C. Sec.
4 1396r-8(k)(7).

5 (r) “Therapeutic category” means a drug or a grouping of drugs
6 determined by the department to have similar attributes and to be
7 alternatives for the treatment of a specific disease or condition.

8 (s) “Volume weighted average discount” means the aggregated
9 average discount for the drugs of a manufacturer, weighted by
10 each drug’s percentage of the total prescription volume of that
11 manufacturer’s drugs. For purposes of this calculation, discounts
12 shall include any rebate amounts used to fund program costs
13 pursuant to Section 130542.1. Drugs excluded from contracting
14 by the department, pursuant to subdivision (d) of Section 130506
15 and in a manner consistent with subdivision (c) of Section 130506,
16 shall be excluded from the calculation of the volume weighted
17 average discount. National sales data shall be used to calculate the
18 volume weighted average discount pursuant to Section 130506.
19 Program utilization data shall be used to calculate the volume
20 weighted average discount pursuant to Section 130507.

21 SEC. 124. Section 130506 of the Health and Safety Code is
22 amended to read:

23 130506. (a) The department shall negotiate drug discount
24 agreements with manufacturers to provide discounts for
25 single-source and multiple-source prescription drugs through the
26 program. The department shall attempt to negotiate the maximum
27 possible discount for an eligible Californian. The department shall
28 attempt to negotiate, with each manufacturer, discounts to offer
29 single-source prescription drugs under the program at a volume
30 weighted average discount that is equal to or below any one of the
31 following benchmark prices:

32 (1) Eighty-five percent of the average manufacturer price for a
33 drug, as published by the federal Centers for Medicare and
34 Medicaid Services.

35 (2) The lowest price provided to any nonpublic entity in the
36 state by a manufacturer to the extent that the Medicaid best price
37 exists under federal law.

38 (3) The Medicaid best price, to the extent that this price exists
39 under federal law.

1 (b) The department may require the drug manufacturer to
 2 provide information that is reasonably necessary for the department
 3 to carry out its duties pursuant to this division.

4 (c) The department shall pursue manufacturer discount
 5 agreements to ensure that the number and type of drugs available
 6 through the program is sufficient to give an eligible Californian a
 7 formulary comparable to the Medi-Cal list of contract drugs, or if
 8 this information is available to the department, a formulary that is
 9 comparable to that provided to CalPERS enrollees.

10 (d) To obtain the most favorable discounts, the department may
 11 limit the number of drugs available through the program.

12 (e) The drug discount agreements negotiated pursuant to this
 13 section shall be used to reduce the cost of drugs purchased by
 14 program participants and to fund program costs pursuant to Section
 15 130542.1.

16 (f) All information reported by a manufacturer to, negotiations
 17 with, and agreements executed with, the department or its
 18 third-party vendor pursuant to this section, shall be considered
 19 confidential and corporate proprietary information. This
 20 information shall not be subject to disclosure under the California
 21 Public Records Act (Chapter 3.5 (commencing with Section 6250)
 22 of Division 7 of Title 1 of the Government Code). The Bureau of
 23 State Audits and the Controller shall have access to pricing
 24 information in a manner that is consistent with their access to this
 25 information under the Medi-Cal program and under law. The
 26 Bureau of State Audits and the Controller may use this information
 27 only to investigate or audit the administration of the program.
 28 Neither the Bureau of State Audits, the Controller, nor the
 29 department may disclose this information in a form that identifies
 30 a specific manufacturer or wholesaler or prices charged for drugs
 31 of this manufacturer or wholesaler. Information provided to the
 32 department pursuant to subdivision (e) of Section 130530 shall
 33 not be affected by the confidentiality protections established by
 34 this subdivision.

35 (g) (1) Any pharmacy licensed pursuant to Chapter 9
 36 (commencing with Section 4000) of Division 2 of the Business
 37 and Professions Code may participate in the program.

38 (2) Any manufacturer may participate in the program.

39 SEC. 125. Section 779.11 of the Insurance Code is amended
 40 to read:

1 779.11. The provisions of subdivisions ~~(e) and (f)~~ (f) and (g)
2 of Section 10291.5 shall be applicable to the withdrawal of the
3 approval of forms, whether of life or disability insurance, required
4 by this article to be filed with or approved by the commissioner.

5 SEC. 126. Section 790.037 of the Insurance Code is amended
6 to read:

7 790.037. (a) It is an unfair business practice for a health
8 insurance agent or broker to sell, solicit, or negotiate the purchase
9 of health insurance by any of the following methods:

10 (1) The use of a marketing technique known as cold lead
11 advertising when marketing a Medicare product. As used in this
12 section, “cold lead advertising” means making use directly or
13 indirectly of a method of marketing that fails to disclose in a
14 conspicuous manner that a purpose of the marketing is health
15 insurance sales solicitation and that contact will be made by a
16 health insurance agent or broker.

17 (2) The use of an appointment that was made to discuss a
18 particular Medicare product or to solicit the sale of a particular
19 Medicare product in order to solicit the sale of another Medicare
20 product or other health insurance products, unless the consumer
21 specifically agrees in advance of the appointment to discuss that
22 other Medicare product or other types of health insurance products
23 during the same appointment.

24 (b) As used in this section, “Medicare product” includes
25 Medicare Parts A, B, C, and D, and Medicare supplement plans.

26 SEC. 127. Section 1063.1 of the Insurance Code is amended
27 to read:

28 1063.1. As used in this article:

29 (a) “Member insurer” means an insurer required to be a member
30 of the association in accordance with subdivision (a) of Section
31 1063, except and to the extent that the insurer is participating in
32 an insolvency program adopted by the United States government.

33 (b) “Insolvent insurer” means an insurer that was a member
34 insurer of the association, consistent with paragraph (11) of
35 subdivision (c), either at the time the policy was issued or when
36 the insured event occurred, and against which an order of
37 liquidation or receivership with a finding of insolvency has been
38 entered by a court of competent jurisdiction, or, in the case of the
39 State Compensation Insurance Fund, if a finding of insolvency is
40 made by a duly enacted legislative measure.

1 (c) (1) “Covered claims” means the obligations of an insolvent
2 insurer, including the obligation for unearned premiums, that satisfy
3 all of the following requirements:

4 (A) Imposed by law and within the coverage of an insurance
5 policy of the insolvent insurer.

6 (B) Which were unpaid by the insolvent insurer.

7 (C) Which are presented as a claim to the liquidator in this state
8 or to the association on or before the last date fixed for the filing
9 of claims in the domiciliary liquidating proceedings.

10 (D) Which were incurred prior to the date coverage under the
11 policy terminated and prior to, on, or within 30 days after the date
12 the liquidator was appointed.

13 (E) For which the assets of the insolvent insurer are insufficient
14 to discharge in full.

15 (F) In the case of a policy of workers’ compensation insurance,
16 to provide workers’ compensation benefits under the workers’
17 compensation law of this state.

18 (G) In the case of other classes of insurance if the claimant or
19 insured is a resident of this state at the time of the insured
20 occurrence, or the property from which the claim arises is
21 permanently located in this state.

22 (2) “Covered claims” also includes the obligations assumed by
23 an assuming insurer from a ceding insurer where the assuming
24 insurer subsequently becomes an insolvent insurer if, at the time
25 of the insolvency of the assuming insurer, the ceding insurer is no
26 longer admitted to transact business in this state. Both the assuming
27 insurer and the ceding insurer shall have been member insurers at
28 the time the assumption was made. “Covered claims” under this
29 paragraph shall be required to satisfy the requirements of
30 subparagraphs (A) to (G), inclusive, of paragraph (1), except for
31 the requirement that the claims be against policies of the insolvent
32 insurer. The association shall have a right to recover any deposit,
33 bond, or other assets that may have been required to be posted by
34 the ceding company to the extent of covered claim payments and
35 shall be subrogated to any rights the policyholders may have
36 against the ceding insurer.

37 (3) “Covered claims” does not include obligations arising from
38 the following:

39 (A) Life, annuity, health, or disability insurance.

1 (B) Mortgage guaranty, financial guaranty, or other forms of
2 insurance offering protection against investment risks.

3 (C) Fidelity or surety insurance including fidelity or surety
4 bonds, or any other bonding obligations.

5 (D) Credit insurance.

6 (E) Title insurance.

7 (F) Ocean marine insurance or ocean marine coverage under
8 any insurance policy including claims arising from the following:
9 the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor
10 Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or any
11 other similar federal statutory enactment, or any endorsement or
12 policy affording protection and indemnity coverage.

13 (G) Any claims servicing agreement or insurance policy
14 providing retroactive insurance of a known loss or losses, except
15 a special excess workers' compensation policy issued pursuant to
16 subdivision (c) of Section 3702.8 of the Labor Code that covers
17 all or any part of workers' compensation liabilities of an employer
18 that is issued, or was previously issued, a certificate of consent to
19 self-insure pursuant to subdivision (b) of Section 3700 of the Labor
20 Code.

21 (4) "Covered claims" does not include any obligations of the
22 insolvent insurer arising out of any reinsurance contracts, nor any
23 obligations incurred after the expiration date of the insurance policy
24 or after the insurance policy has been replaced by the insured or
25 canceled at the insured's request, or after the insurance policy has
26 been canceled by the liquidator, nor any obligations to any state
27 or to the federal government.

28 (5) "Covered claims" does not include any obligations to
29 insurers, insurance pools, or underwriting associations, nor their
30 claims for contribution, indemnity, or subrogation, equitable or
31 otherwise, except as otherwise provided in this chapter.

32 An insurer, insurance pool, or underwriting association may not
33 maintain, in its own name or in the name of its insured, any claim
34 or legal action against the insured of the insolvent insurer for
35 contribution, indemnity or by way of subrogation, except insofar
36 as, and to the extent only, that the claim exceeds the policy limits
37 of the insolvent insurer's policy. In those claims or legal actions,
38 the insured of the insolvent insurer is entitled to a credit or setoff
39 in the amount of the policy limits of the insolvent insurer's policy,

1 or in the amount of the limits remaining, where those limits have
2 been diminished by the payment of other claims.

3 (6) “Covered claims,” except in cases involving a claim for
4 workers’ compensation benefits or for unearned premiums, does
5 not include any claim in an amount of one hundred dollars (\$100)
6 or less, nor that portion of any claim that is in excess of any
7 applicable limits provided in the insurance policy issued by the
8 insolvent insurer.

9 (7) “Covered claims” does not include that portion of any claim,
10 other than a claim for workers’ compensation benefits, that is in
11 excess of five hundred thousand dollars (\$500,000).

12 (8) “Covered claims” does not include any amount awarded as
13 punitive or exemplary damages, nor any amount awarded by the
14 Workers’ Compensation Appeals Board pursuant to Section 5814
15 or 5814.5 of the Labor Code because payment of compensation
16 was unreasonably delayed or refused by the insolvent insurer.

17 (9) “Covered claims” does not include (A) any claim to the
18 extent it is covered by any other insurance of a class covered by
19 this article available to the claimant or insured or (B) any claim
20 by any person other than the original claimant under the insurance
21 policy in his or her own name, his or her assignee as the person
22 entitled thereto under a premium finance agreement as defined in
23 Section 673 and entered into prior to insolvency, his or her
24 executor, administrator, guardian, or other personal representative
25 or trustee in bankruptcy, and does not include any claim asserted
26 by an assignee or one claiming by right of subrogation, except as
27 otherwise provided in this chapter.

28 (10) “Covered claims” does not include any obligations arising
29 out of the issuance of an insurance policy written by the separate
30 division of the State Compensation Insurance Fund pursuant to
31 Sections 11802 and 11803.

32 (11) “Covered claims” does not include any obligations of the
33 insolvent insurer arising from any policy or contract of insurance
34 issued or renewed prior to the insolvent insurer’s admission to
35 transact insurance in the State of California.

36 (12) “Covered claims” does not include surplus deposits of
37 subscribers as defined in Section 1374.1.

38 (13) “Covered claims” shall also include obligations arising
39 under an insurance policy written to indemnify a permissibly
40 self-insured employer pursuant to subdivision (b) or (c) of Section

1 3700 of the Labor Code for its liability to pay workers'
2 compensation benefits in excess of a specific or aggregate retention,
3 provided, however, that for purposes of this article, those claims
4 shall not be considered workers' compensation claims and therefore
5 are subject to the per claim limit in paragraph (7) and any payments
6 and expenses related thereto shall be allocated to category (c) for
7 claims other than workers' compensation, homeowners, and
8 automobile, as provided in Section 1063.5.

9 These provisions shall apply to obligations arising under any
10 policy as described herein issued to a permissibly self-insured
11 employer or group of self-insured employers pursuant to Section
12 3700 of the Labor Code and notwithstanding any other provision
13 of the Insurance Code, those obligations shall be governed by this
14 provision in the event that the Self-Insurers' Security Fund is
15 ordered to assume the liabilities of a permissibly self-insured
16 employer or group of self-insured employers pursuant to Section
17 3701.5 of the Labor Code. The provisions of this paragraph apply
18 only to insurance policies written to indemnify a permissibly
19 self-insured employer or group of self-insured employers under
20 subdivision (b) or (c) of Section 3700, for its liability to pay
21 workers' compensation benefits in excess of a specific or aggregate
22 retention, and this paragraph does not apply to special excess
23 workers' compensation insurance policies unless issued pursuant
24 to authority granted in subdivision (c) of Section 3702.8 of the
25 Labor Code, and as provided for in subparagraph (G) of paragraph
26 (3) of subdivision (c). In addition, this paragraph does not apply
27 to any claims servicing agreement or insurance policy providing
28 retroactive insurance of a known loss or losses as are excluded in
29 subparagraph (G) of paragraph (3) of subdivision (c).

30 Each permissibly self-insured employer or group of self-insured
31 employers, or the Self-Insurers' Security Fund, shall, to the extent
32 required by the Labor Code, be responsible for paying, adjusting,
33 and defending each claim arising under policies of insurance
34 covered under this section, unless the benefits paid on a claim
35 exceed the specific or aggregate retention, in which case:

36 (A) If the benefits paid on the claim exceed the specific or
37 aggregate retention, and the policy requires the insurer to defend
38 and adjust the claim, the California Insurance Guarantee
39 Association (CIGA) shall be solely responsible for adjusting and
40 defending the claim, and shall make all payments due under the

1 claim, subject to the limitations and exclusions of this article with
2 regards to covered claims. As to each claim subject to this
3 paragraph, notwithstanding any other provisions of the Insurance
4 Code or the Labor Code, and regardless of whether the amount
5 paid by CIGA is adequate to discharge a claim obligation, neither
6 the self-insured employer, group of self-insured employers, nor
7 the Self-Insurers' Security Fund, shall have any obligation to pay
8 benefits over and above the specific or aggregate retention, except
9 as provided in subdivision (c).

10 (B) If the benefits paid on the claim exceed the specific or
11 aggregate retention, and the policy does not require the insurer to
12 defend and adjust the claim, the permissibly self-insured employer
13 or group of self-insured employers, or the Self-Insurers' Security
14 Fund, shall not have any further payment obligations with respect
15 to the claim, but shall continue defending and adjusting the claim,
16 and shall have the right, but not the obligation, in any proceeding
17 to assert all applicable statutory limitations and exclusions as
18 contained in this article with regard to the covered claim. CIGA
19 shall have the right, but not the obligation, to intervene in any
20 proceeding where the self-insured employer, group of self-insured
21 employers, or the Self-Insurers' Security Fund is defending any
22 such claim and shall be permitted to raise the appropriate statutory
23 limitations and exclusions as contained in this article with respect
24 to covered claims. Regardless of whether the self-insured employer
25 or group of self-insured employers, or the Self-Insurers' Security
26 Fund, asserts the applicable statutory limitations and exclusions,
27 or whether CIGA intervenes in any such proceeding, CIGA shall
28 be solely responsible for paying all benefits due on the claim,
29 subject to the exclusions and limitations of this article with respect
30 to covered claims. As to each claim subject to this paragraph,
31 notwithstanding any other provision of the Insurance Code or the
32 Labor Code and regardless of whether the amount paid by CIGA
33 is adequate to discharge a claim obligation, neither the self-insured
34 employer, group of self-insured employers, nor the Self-Insurers'
35 Security Fund, shall have any obligation to pay benefits over and
36 above the specific or aggregate retention, except as provided in
37 this subdivision.

38 (C) In the event that the benefits paid on the covered claim
39 exceed the per claim limit in paragraph (7) of subdivision (c), the
40 responsibility for paying, adjusting, and defending the claim shall

1 be returned to the permissibly self-insured employer or group of
2 employers, or the Self-Insurers' Security Fund.

3 These provisions shall apply to all pending and future
4 insolvencies. For purposes of this paragraph, a pending insolvency
5 is one involving a company that is currently receiving benefits
6 from the guaranty association.

7 (d) "Admitted to transact insurance in this state" means an
8 insurer possessing a valid certificate of authority issued by the
9 department.

10 (e) "Affiliate" means a person who directly or indirectly, through
11 one or more intermediaries, controls, is controlled by, or is under
12 common control with an insolvent insurer on December 31 of the
13 year next preceding the date the insurer becomes an insolvent
14 insurer.

15 (f) "Control" means the possession, direct or indirect, of the
16 power to direct or cause the direction of the management and
17 policies of a person, whether through the ownership of voting
18 securities, by contract other than a commercial contract for goods
19 or nonmanagement services, or otherwise, unless the power is the
20 result of an official position with or corporate office held by the
21 person. Control is presumed to exist if any person, directly or
22 indirectly, owns, controls, holds with the power to vote, or holds
23 proxies representing, 10 percent or more of the voting securities
24 of any other person. This presumption may be rebutted by showing
25 that control does not in fact exist.

26 (g) "Claimant" means any insured making a first party claim or
27 any person instituting a liability claim; provided that no person
28 who is an affiliate of the insolvent insurer may be a claimant.

29 (h) "Ocean marine insurance" includes marine insurance as
30 defined in Section 103, except for inland marine insurance, as well
31 as any other form of insurance, regardless of the name, label, or
32 marketing designation of the insurance policy, that insures against
33 maritime perils or risks and other related perils or risks, which are
34 usually insured against by traditional marine insurance such as
35 hull and machinery, marine builders' risks, and marine protection
36 and indemnity. Those perils and risks insured against include,
37 without limitation, loss, damage, or expense or legal liability of
38 the insured arising out of or incident to ownership, operation,
39 chartering, maintenance, use, repair, or construction of any vessel,
40 craft or instrumentality in use in ocean or inland waterways,

1 including liability of the insured for personal injury, illness, or
2 death for loss or damage to the property of the insured or another
3 person.

4 (i) “Unearned premium” means that portion of a premium as
5 calculated by the liquidator that had not been earned because of
6 the cancellation of the insolvent insurer’s policy and is that
7 premium remaining for the unexpired term of the insolvent
8 insurer’s policy. “Unearned premium” does not include any amount
9 sought as return of a premium under any policy providing
10 retroactive insurance of a known loss or return of a premium under
11 any retrospectively rated policy or a policy subject to a contingent
12 surcharge or any policy in which the final determination of the
13 premium cost is computed after expiration of the policy and is
14 calculated on the basis of actual loss experience during the policy
15 period.

16 SEC. 128. Section 1063.2 of the Insurance Code is amended
17 to read:

18 1063.2. (a) The association shall pay and discharge covered
19 claims and in connection therewith pay for or furnish loss
20 adjustment services and defenses of claimants when required by
21 policy provisions. It may do so either directly by itself or through
22 a servicing facility or through a contract for reinsurance and
23 assumption of liabilities by one or more member insurers or
24 through a contract with the liquidator, upon terms satisfactory to
25 the association and to the liquidator, under which payments on
26 covered claims would be made by the liquidator using funds
27 provided by the association.

28 (b) The association shall be a party in interest in all proceedings
29 involving a covered claim, and shall have the same rights as the
30 insolvent insurer would have had if not in liquidation, including,
31 but not limited to, the right to: (1) appear, defend, and appeal a
32 claim in a court of competent jurisdiction, (2) receive notice of,
33 investigate, adjust, compromise, settle, and pay a covered claim,
34 and (3) investigate, handle, and deny a noncovered claim. The
35 association shall have no cause of action against the insureds of
36 the insolvent insurer for any sums it has paid out, except as
37 provided by this article.

38 (c) (1) If damages against uninsured motorists are recoverable
39 by the claimant from his or her own insurer, the applicable limits
40 of the uninsured motorist coverage shall be a credit against a

1 covered claim payable under this article. Any person having a
2 claim that may be recovered under more than one insurance
3 guaranty association or its equivalent shall seek recovery first from
4 the association of the place of residence of the insured, except that
5 if it is a first-party claim for damage to property with a permanent
6 location, he or she shall seek recovery first from the association
7 of the permanent location of the property, and if it is a workers'
8 compensation claim, he or she shall seek recovery first from the
9 association of the residence of the claimant. Any recovery under
10 this article shall be reduced by the amount of recovery from any
11 other insurance guaranty association or its equivalent. A member
12 insurer may recover in subrogation from the association only
13 one-half of any amount paid by that insurer under uninsured
14 motorist coverage for bodily injury or wrongful death (and nothing
15 for a payment for anything else), in those cases where the injured
16 person insured by such an insurer has proceeded under his or her
17 uninsured motorist coverage on the ground that the tort-feasor is
18 uninsured as a result of the insolvency of his or her liability insurer
19 (an insolvent insurer as defined in this article), provided that the
20 member insurer shall waive all rights of subrogation against such
21 tort-feasor. Any amount paid a claimant in excess of the amount
22 authorized by this section may be recovered by action, or other
23 proceeding, brought by the association.

24 (2) Any claimant having collision coverage on a loss which is
25 covered by the insolvent company's liability policy shall first
26 proceed against his or her collision carrier. Neither that claimant
27 nor the collision carrier, if it is a member of the association, shall
28 have the right to sue or continue a suit against the insured of the
29 insolvent insurance company for that collision damage.

30 (d) The association shall have the right to recover from any
31 person who is an affiliate of the insolvent insurer and whose
32 liability obligations to other persons are satisfied in whole or in
33 part by payments made under this article the amount of any covered
34 claim and allocated claims expense paid on behalf of that person
35 pursuant to this article.

36 (e) Any person having a claim or legal right of recovery under
37 any governmental insurance or guaranty program which is also a
38 covered claim, shall be required to first exhaust his or her right
39 under the program. Any amount payable on a covered claim shall
40 be reduced by the amount of any recovery under the program.

1 (f) “Covered claims” for unearned premium by lenders under
2 insurance premium finance agreements as defined in Section 673
3 shall be computed as of the earliest cancellation date of the policy
4 pursuant to Section 673 or subdivision (g) of this section.

5 (g) “Covered claims” shall not include any judgments against
6 or obligations or liabilities of the insolvent insurer or the
7 commissioner, as liquidator, or otherwise resulting from alleged
8 or proven torts, nor shall any default judgment or stipulated
9 judgment against the insolvent insurer, or against the insured of
10 the insolvent insurer, be binding against the association.

11 (h) “Covered claims” shall not include any loss adjustment
12 expenses, including adjustment fees and expenses, attorney’s fees
13 and expenses, court costs, interest, and bond premiums, incurred
14 prior to the appointment of a liquidator.

15 SEC. 129. Section 1765 of the Insurance Code is amended to
16 read:

17 1765. (a) A license under this chapter shall be applied for and
18 renewed by the filing with the commissioner of a written
19 application therefor, in accordance with Section 1652.

20 (b) Subject to subdivision (f), the commissioner shall issue a
21 license authorizing any applicant who is trustworthy and competent
22 to transact an insurance brokerage business in a manner as to
23 safeguard the interest of the insured, to act as a surplus line broker
24 from the date of the license until the expiration date specified in
25 Section 1630.

26 (c) An applicant for a surplus line broker’s license shall, as part
27 of the application and a condition of the issuance of the license,
28 file a bond to the people of the State of California in the sum of
29 fifty thousand dollars (\$50,000), conditioned that the licensee will
30 fully and faithfully comply with the requirements of this chapter,
31 and all applicable provisions of this code. The bond shall be subject
32 to Sections 1662 and 1663. A surplus line broker bond is not
33 required for an individual licensed as a surplus line broker who
34 transacts only on behalf of a licensed surplus line broker
35 organization.

36 (d) The filing fee for a license to act as a surplus line broker
37 shall be one thousand dollars (\$1,000) every two years, or for any
38 initial fractional license year. For an individual licensed as a surplus
39 line broker who only transacts on behalf of a surplus line broker
40 organization, the filing fee shall be five hundred dollars (\$500)

1 every two years, or for any initial fractional license year. Every
2 applicant for a business entity license, as provided in subdivision
3 (a) of Section 1765.2, shall provide the names of all persons who
4 may exercise the power and perform the duties under the license.
5 Whenever an organization licensed as a surplus line broker desires
6 to change, remove, or add to the natural person or persons who
7 are to transact insurance under authority of its license, it shall
8 immediately file an application or notice with the commissioner
9 for an endorsement changing its license accordingly, on a form
10 prescribed by the commissioner. The fee for adding or removing
11 from any surplus line broker's license issued to an organization
12 the name of any natural person, named thereon, shall be
13 twenty-four dollars (\$24). The commissioner shall require that the
14 qualifying examination provided by subdivision (a) of Section
15 1676 be taken by any natural person named by the organization
16 to exercise its agency or brokerage powers who would be required
17 to take and pass the qualifying examination. That natural person
18 or persons and the organization are in all other respects subject to
19 the provisions of this chapter and the insurance laws.

20 (e) The department is authorized to collect additional license
21 fees resulting from the increases in license fees provided by
22 Chapter 29 of the Statutes of 2008 and shall credit any overpayment
23 resulting from reductions in license fees provided by that act.

24 (f) A business entity licensed under this chapter shall provide
25 two hours of appropriate training to its employees who solicit,
26 negotiate, or effect insurance coverage placed by a nonadmitted
27 insurer. The training shall be given to each eligible employee every
28 five years. The surplus line advisory organization authorized
29 pursuant to Chapter 6.1 (commencing with Section 1780.50) shall
30 develop the curriculum for the training.

31 (g) The license shall be renewed in accordance with, and subject
32 to, Sections 1717, 1718, 1719, and 1720.

33 (h) The commissioner may deny, suspend, or revoke any license
34 applied for or granted pursuant to this chapter on all or any one of
35 the grounds and in accordance with the procedures provided in
36 Article 6 (commencing with Section 1666) and Article 13
37 (commencing with Section 1737) of Chapter 5, whenever the
38 commissioner finds that the applicant or licensee has committed
39 a violation of any provision of this code.

1 SEC. 130. Section 10123.145 of the Insurance Code is amended
2 to read:

3 10123.145. (a) Whenever an insurer issuing group or individual
4 policies of disability insurance which covers hospital, medical, or
5 surgical expenses determines that in reimbursing a claim for
6 provider services an institutional or professional provider has been
7 overpaid, and then notifies the provider in writing through a
8 separate notice identifying the overpayment and the amount of the
9 overpayment, the provider shall reimburse the insurer within 30
10 working days of receipt by the provider of the notice of
11 overpayment unless the overpayment or portion thereof is contested
12 by the provider in which case the insurer shall be notified, in
13 writing, within 30 working days. The notice that an overpayment
14 is being contested shall identify the portion of the overpayment
15 that is contested and the specific reasons for contesting the
16 overpayment.

17 If the provider does not make reimbursement for an uncontested
18 overpayment within 30 working days after receipt, interest shall
19 accrue at the rate of 10 percent per annum beginning with the first
20 calendar day after the 30-working-day period.

21 (b) (1) This subdivision shall only apply to a health insurance
22 policy covering dental services or a specialized health insurance
23 policy covering dental services.

24 (2) The insurer's notice of overpayment shall inform the
25 provider how to access the insurer's dispute resolution mechanism
26 offered pursuant to subdivision (a) of Section 10123.137. The
27 notice shall include the name and address to which the dispute
28 should be submitted and a statement that Section 10123.145 of the
29 Insurance Code requires a provider to reimburse the insurer for an
30 overpayment within 30 working days of receipt by the provider
31 of the notice of overpayment unless the provider contests the
32 overpayment within 30 working days. The notice shall also include
33 information clearly identifying the claim, the name of the patient,
34 the date of service, and a clear explanation of the basis upon which
35 the insurer believes the amount paid on the claim was in excess
36 of the amount due, including interest and penalties on the claim.
37 The notice shall also include a statement that if the provider does
38 not make reimbursement of an uncontested overpayment within
39 30 working days after receipt of the notice, interest shall accrue
40 at a rate of 10 percent per annum.

1 SEC. 131. Section 10232.2 of the Insurance Code, as added
2 by Section 3 of Chapter 699 of the Statutes of 1997, is repealed.

3 SEC. 132. Section 10232.2 of the Insurance Code, as added
4 by Section 2 of Chapter 700 of the Statutes of 1997, is repealed.

5 SEC. 133. Section 12693.43 of the Insurance Code is amended
6 to read:

7 12693.43. (a) Applicants applying to the purchasing pool shall
8 agree to pay family contributions, unless the applicant has a family
9 contribution sponsor. Family contribution amounts consist of the
10 following two components:

11 (1) The flat fees described in subdivision (b) or (d).

12 (2) Any amounts that are charged to the program by participating
13 health, dental, and vision plans selected by the applicant that exceed
14 the cost to the program of the highest cost Family Value Package
15 in a given geographic area.

16 (b) In each geographic area, the board shall designate one or
17 more Family Value Packages for which the required total family
18 contribution is:

19 (1) Seven dollars (\$7) per child with a maximum required
20 contribution of fourteen dollars (\$14) per month per family for
21 applicants with annual household incomes up to and including 150
22 percent of the federal poverty level.

23 (2) Nine dollars (\$9) per child with a maximum required
24 contribution of twenty-seven dollars (\$27) per month per family
25 for applicants with annual household incomes greater than 150
26 percent and up to and including 200 percent of the federal poverty
27 level and for applicants on behalf of children described in clause
28 (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of
29 Section 12693.70. Commencing the first day of the fifth month
30 following the enactment of the 2008–09 Budget Act, the family
31 contribution pursuant to this paragraph shall be twelve dollars
32 (\$12) per child with a maximum required contribution of thirty-six
33 dollars (\$36) per month per family.

34 (3) (A) On and after July 1, 2005, fifteen dollars (\$15) per child
35 with a maximum required contribution of forty-five dollars (\$45)
36 per month per family for applicants with annual household income
37 to which subparagraph (B) of paragraph (6) of subdivision (a) of
38 Section 12693.70 is applicable. Notwithstanding any other
39 provision of law, if an application with an effective date prior to
40 July 1, 2005, was based on annual household income to which

1 subparagraph (B) of paragraph (6) of subdivision (a) of Section
2 12693.70 is applicable, this subparagraph shall be applicable to
3 the applicant on July 1, 2005, unless subparagraph (B) of paragraph
4 (6) of subdivision (a) of Section 12693.70 is no longer applicable
5 to the relevant family income. The program shall provide prior
6 notice to any applicant for currently enrolled subscribers whose
7 premium will increase on July 1, 2005, pursuant to this
8 subparagraph and, prior to the date the premium increase takes
9 effect, shall provide that applicant with an opportunity to
10 demonstrate that subparagraph (B) of paragraph (6) of subdivision
11 (a) of Section 12693.70 is no longer applicable to the relevant
12 family income.

13 (B) Commencing the first day of the fifth month following the
14 enactment of the 2008–09 Budget Act, the family contribution
15 pursuant to this paragraph shall be seventeen dollars (\$17) per
16 child with a maximum required contribution of fifty-one dollars
17 (\$51) per month per family.

18 (c) Combinations of health, dental, and vision plans that are
19 more expensive to the program than the highest cost Family Value
20 Package may be offered to and selected by applicants. However,
21 the cost to the program of those combinations that exceeds the
22 price to the program of the highest cost Family Value Package
23 shall be paid by the applicant as part of the family contribution.

24 (d) The board shall provide a family contribution discount to
25 those applicants who select the health plan in a geographic area
26 that has been designated as the Community Provider Plan. The
27 discount shall reduce the portion of the family contribution
28 described in subdivision (b) to the following:

29 (1) A family contribution of four dollars (\$4) per child with a
30 maximum required contribution of eight dollars (\$8) per month
31 per family for applicants with annual household incomes up to and
32 including 150 percent of the federal poverty level.

33 (2) Six dollars (\$6) per child with a maximum required
34 contribution of eighteen dollars (\$18) per month per family for
35 applicants with annual household incomes greater than 150 percent
36 and up to and including 200 percent of the federal poverty level
37 and for applicants on behalf of children described in clause (ii) of
38 subparagraph (A) of paragraph (6) of subdivision (a) of Section
39 12693.70. Commencing the first day of the fifth month following
40 the enactment of the 2008–09 Budget Act, the family contribution

1 pursuant to this paragraph shall be nine dollars (\$9) per child with
2 a maximum required contribution of twenty-seven dollars (\$27)
3 per month per family.

4 (3) (A) On and after July 1, 2005, twelve dollars (\$12) per child
5 with a maximum required contribution of thirty-six dollars (\$36)
6 per month per family for applicants with annual household income
7 to which subparagraph (B) of paragraph (6) of subdivision (a) of
8 Section 12693.70 is applicable. Notwithstanding any other
9 provision of law, if an application with an effective date prior to
10 July 1, 2005, was based on annual household income to which
11 subparagraph (B) of paragraph (6) of subdivision (a) of Section
12 12693.70 is applicable, then this subparagraph shall be applicable
13 to the applicant on July 1, 2005, unless subparagraph (B) of
14 paragraph (6) of subdivision (a) of Section 12693.70 is no longer
15 applicable to the relevant family income. The program shall provide
16 prior notice to any applicant for currently enrolled subscribers
17 whose premium will increase on July 1, 2005, pursuant to this
18 subparagraph and, prior to the date the premium increase takes
19 effect, shall provide that applicant with an opportunity to
20 demonstrate that subparagraph (B) of paragraph (6) of subdivision
21 (a) of Section 12693.70 is no longer applicable to the relevant
22 family income.

23 (B) Commencing the first day of the fifth month following the
24 enactment of the 2008–09 Budget Act, the family contribution
25 pursuant to this paragraph shall be fourteen dollars (\$14) per child
26 with a maximum required contribution of forty-two dollars (\$42)
27 per month per family.

28 (e) Applicants, but not family contribution sponsors, who pay
29 three months of required family contributions in advance shall
30 receive the fourth consecutive month of coverage with no family
31 contribution required.

32 (f) Applicants, but not family contribution sponsors, who pay
33 the required family contributions by an approved means of
34 electronic fund transfer shall receive a 25-percent discount from
35 the required family contributions.

36 (g) It is the intent of the Legislature that the family contribution
37 amounts described in this section comply with the premium cost
38 sharing limits contained in Section 2103 of Title XXI of the Social
39 Security Act. If the amounts described in subdivision (a) are not
40 approved by the federal government, the board may adjust these

1 amounts to the extent required to achieve approval of the state
2 plan.

3 (h) The adoption and one readoption of regulations to implement
4 paragraph (3) of subdivision (b) and paragraph (3) of subdivision
5 (d) shall be deemed to be an emergency and necessary for the
6 immediate preservation of public peace, health, and safety, or
7 general welfare for purposes of Sections 11346.1 and 11349.6 of
8 the Government Code, and the board is hereby exempted from the
9 requirement that it describe specific facts showing the need for
10 immediate action and from review by the Office of Administrative
11 Law. For purpose of subdivision (e) of Section 11346.1 of the
12 Government Code, the 120-day period, as applicable to the
13 effective period of an emergency regulatory action and submission
14 of specified materials to the Office of Administrative Law, is
15 hereby extended to 180 days.

16 (i) The board may adopt, and may only one time readopt,
17 regulations to implement the changes to this section that are
18 effective the first day of the fifth month following the enactment
19 of the 2008–09 Budget Act. The adoption and one-time readoption
20 of a regulation authorized by this section is deemed to address an
21 emergency, for purposes of Sections 11346.1 and 11349.6 of the
22 Government Code, and the board is hereby exempted for this
23 purpose from the requirements of subdivision (b) of Section
24 11346.1 of the Government Code.

25 SEC. 134. Section 12957 of the Insurance Code is amended
26 to read:

27 12957. The commissioner shall not withdraw approval of a
28 policy previously approved by him or her except upon those
29 grounds as, in his or her opinion, would authorize disapproval
30 upon original submission thereof. Any withdrawal of approval
31 shall be in writing and shall specify the ground thereof. If the
32 insurer demands a hearing on a withdrawal, the hearing shall be
33 granted and commenced within 30 days of the filing of a written
34 demand with the commissioner. Unless the hearing is commenced,
35 the notice of withdrawal shall become ineffective upon the 31st
36 day from and after the date of filing of the demand.

37 This section shall not apply to policies subject to the provisions
38 of subdivision (f) of Section 10291.5, or to policies, contracts, or
39 agreements that were approved under an alternative filing and

1 approval procedure as provided for in subdivision (f) of Section
2 10506.4 or subdivision (c) of Section 10507.5.

3 SEC. 135. Section 87 of the Labor Code is amended to read:

4 87. All persons, other than temporary employees, serving in
5 the state civil service and engaged in the performance of a function
6 transferred pursuant to this chapter, or engaged in the
7 administration of a law, the administration of which is transferred
8 pursuant to this chapter, shall, in accordance with Section 19050.9
9 of the Government Code, remain in the state civil service and are
10 hereby transferred to the Division of Labor Standards Enforcement.
11 The status, positions, and rights of those persons shall not be
12 affected by their transfer and shall continue to be retained by them
13 pursuant to the State Civil Service Act (Part 2 (commencing with
14 Section 18500) of Division 5 of Title 5 of the Government Code),
15 except as to positions the duties of which are vested in a position
16 that is exempt from civil service.

17 SEC. 136. Section 2699.5 of the Labor Code is amended to
18 read:

19 2699.5. The provisions of subdivision (a) of Section 2699.3
20 apply to any alleged violation of the following provisions:
21 subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5,
22 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205,
23 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section
24 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of
25 Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3,
26 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
27 subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and
28 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7,
29 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750,
30 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976,
31 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153,
32 subdivisions (c) and (d) of Section 1174, Sections 1194, 1197,
33 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3,
34 Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1,
35 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309,
36 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision
37 (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8,
38 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31,
39 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of
40 subdivision (a) of, and subdivision (e) of, Section 1701.4,

1 subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10,
2 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and
3 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800,
4 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and
5 Sections 3095, 6310, 6311, and 6399.7.

6 SEC. 137. Section 3702.1 of the Labor Code is amended to
7 read:

8 3702.1. (a) No person, firm, or corporation, other than an
9 insurer admitted to transact workers' compensation insurance in
10 this state, shall contract to administer claims of self-insured
11 employers as a third-party administrator unless in possession of a
12 certificate of consent to administer self-insured employers'
13 workers' compensation claims.

14 (b) As a condition of receiving a certificate of consent, all
15 persons given discretion by a third-party administrator to deny,
16 accept, or negotiate a workers' compensation claim shall
17 demonstrate their competency to the director by written
18 examination, or other methods approved by the director.

19 (c) A separate certificate shall be required for each adjusting
20 location operated by a third-party administrator. A third-party
21 administrator holding a certificate of consent shall be subject to
22 regulation only under this division with respect to the adjustment,
23 administration, and management of workers' compensation claims
24 for any self-insured employer.

25 (d) A third-party administrator retained by a self-insured
26 employer to administer the employer's workers' compensation
27 claims shall estimate the total accrued liability of the employer for
28 the payment of compensation for the employer's annual report to
29 the director and shall make the estimate both in good faith and
30 with the exercise of a reasonable degree of care. The use of a
31 third-party administrator shall not, however, discharge or alter the
32 employer's responsibilities with respect to the report.

33 SEC. 138. Section 1023 of the Military and Veterans Code is
34 amended to read:

35 1023. (a) The department may sue and be sued in any of the
36 courts of this state. All property held by the department for the
37 home shall be held in trust for the state and for the use and benefit
38 of the home. The administrator shall manage the home and
39 administer its affairs, and, subject to the direction of the director,
40 adopt rules and regulations for the government of the home in

1 conformity, as nearly as possible, to the rules and regulations of
2 the United States Department of Veterans Affairs for their facilities.

3 (b) The Director of General Services may lease or let any real
4 property held by the department for the home, and not needed for
5 any direct or immediate purpose of the home, to any entity or
6 person upon terms and conditions determined to be in the best
7 interests of the home. In any leasing or letting, primary
8 consideration shall be given to the use of real property for
9 agricultural purposes, and except as provided in Section 1048, all
10 moneys received in connection therewith shall be deposited in the
11 General Fund to the credit of, and shall augment the current
12 appropriation for the support of, the home.

13 SEC. 139. Section 166 of the Penal Code is amended to read:

14 166. (a) Except as provided in subdivisions (b), (c), and (d),
15 every person guilty of any contempt of court, of any of the
16 following kinds, is guilty of a misdemeanor:

17 (1) Disorderly, contemptuous, or insolent behavior committed
18 during the sitting of any court of justice, in the immediate view
19 and presence of the court, and directly tending to interrupt its
20 proceedings or to impair the respect due to its authority.

21 (2) Behavior as specified in paragraph (1) committed in the
22 presence of any referee, while actually engaged in any trial or
23 hearing, pursuant to the order of any court, or in the presence of
24 any jury while actually sitting for the trial of a cause, or upon any
25 inquest or other proceedings authorized by law.

26 (3) Any breach of the peace, noise, or other disturbance directly
27 tending to interrupt the proceedings of any court.

28 (4) Willful disobedience of the terms as written of any process
29 or court order or out-of-state court order, lawfully issued by any
30 court, including orders pending trial.

31 (5) Resistance willfully offered by any person to the lawful
32 order or process of any court.

33 (6) The contumacious and unlawful refusal of any person to be
34 sworn as a witness or, when so sworn, the like refusal to answer
35 any material question.

36 (7) The publication of a false or grossly inaccurate report of the
37 proceedings of any court.

38 (8) Presenting to any court having power to pass sentence upon
39 any prisoner under conviction, or to any member of the court, any
40 affidavit or testimony or representation of any kind, verbal or

1 written, in aggravation or mitigation of the punishment to be
2 imposed upon the prisoner, except as provided in this code.

3 (b) (1) Any person who is guilty of contempt of court under
4 paragraph (4) of subdivision (a) by willfully contacting a victim
5 by telephone or mail, or directly, and who has been previously
6 convicted of a violation of Section 646.9 shall be punished by
7 imprisonment in a county jail for not more than one year, by a fine
8 of five thousand dollars (\$5,000), or by both that fine and
9 imprisonment.

10 (2) For the purposes of sentencing under this subdivision, each
11 contact shall constitute a separate violation of this subdivision.

12 (3) The present incarceration of a person who makes contact
13 with a victim in violation of paragraph (1) is not a defense to a
14 violation of this subdivision.

15 (c) (1) Notwithstanding paragraph (4) of subdivision (a), any
16 willful and knowing violation of any protective order or stay-away
17 court order issued pursuant to Section 136.2, in a pending criminal
18 proceeding involving domestic violence, as defined in Section
19 13700, or issued as a condition of probation after a conviction in
20 a criminal proceeding involving domestic violence, as defined in
21 Section 13700, or elder or dependent adult abuse, as defined in
22 Section 368, or that is an order described in paragraph (3), shall
23 constitute contempt of court, a misdemeanor, punishable by
24 imprisonment in a county jail for not more than one year, by a fine
25 of not more than one thousand dollars (\$1,000), or by both that
26 imprisonment and fine.

27 (2) If a violation of paragraph (1) results in a physical injury,
28 the person shall be imprisoned in a county jail for at least 48 hours,
29 whether a fine or imprisonment is imposed, or the sentence is
30 suspended.

31 (3) Paragraphs (1) and (2) apply to the following court orders:

32 (A) Any order issued pursuant to Section 6320 or 6389 of the
33 Family Code.

34 (B) An order excluding one party from the family dwelling or
35 from the dwelling of the other.

36 (C) An order enjoining a party from specified behavior that the
37 court determined was necessary to effectuate the orders described
38 in paragraph (1).

39 (4) A second or subsequent conviction for a violation of any
40 order described in paragraph (1) occurring within seven years of

1 a prior conviction for a violation of any of those orders and
2 involving an act of violence or “a credible threat” of violence, as
3 provided in subdivisions (c) and (d) of Section 139, is punishable
4 by imprisonment in a county jail not to exceed one year, or in the
5 state prison for 16 months or two or three years.

6 (5) The prosecuting agency of each county shall have the
7 primary responsibility for the enforcement of the orders described
8 in paragraph (1).

9 (d) (1) A person who owns, possesses, purchases, or receives
10 a firearm knowing he or she is prohibited from doing so by the
11 provisions of a protective order as defined in Section 136.2 of this
12 code, Section 6218 of the Family Code, or Section 527.6 or 527.8
13 of the Code of Civil Procedure, shall be punished under the
14 provisions of subdivision (g) of Section 12021.

15 (2) A person subject to a protective order described in paragraph
16 (1) shall not be prosecuted under this section for owning,
17 possessing, purchasing, or receiving a firearm to the extent that
18 firearm is granted an exemption pursuant to subdivision (h) of
19 Section 6389 of the Family Code.

20 (e) (1) If probation is granted upon conviction of a violation of
21 subdivision (c), the court shall impose probation consistent with
22 Section 1203.097 of the Penal Code.

23 (2) If probation is granted upon conviction of a violation of
24 subdivision (c), the conditions of probation may include, in lieu
25 of a fine, one or both of the following requirements:

26 (A) That the defendant make payments to a battered women’s
27 shelter, up to a maximum of one thousand dollars (\$1,000).

28 (B) That the defendant provide restitution to reimburse the
29 victim for reasonable costs of counseling and other reasonable
30 expenses that the court finds are the direct result of the defendant’s
31 offense.

32 (3) For any order to pay a fine, make payments to a battered
33 women’s shelter, or pay restitution as a condition of probation
34 under this subdivision or subdivision (c), the court shall make a
35 determination of the defendant’s ability to pay. In no event shall
36 any order to make payments to a battered women’s shelter be made
37 if it would impair the ability of the defendant to pay direct
38 restitution to the victim or court-ordered child support.

39 (4) If the injury to a married person is caused in whole or in
40 part by the criminal acts of his or her spouse in violation of

1 subdivision (c), the community property may not be used to
2 discharge the liability of the offending spouse for restitution to the
3 injured spouse required by Section 1203.04, as operative on or
4 before August 2, 1995, or Section 1202.4, or to a shelter for costs
5 with regard to the injured spouse and dependents required by this
6 subdivision, until all separate property of the offending spouse is
7 exhausted.

8 (5) Any person violating any order described in subdivision (c)
9 may be punished for any substantive offenses described under
10 Section 136.1 or 646.9. No finding of contempt shall be a bar to
11 prosecution for a violation of Section 136.1 or 646.9. However,
12 any person held in contempt for a violation of subdivision (c) shall
13 be entitled to credit for any punishment imposed as a result of that
14 violation against any sentence imposed upon conviction of an
15 offense described in Section 136.1 or 646.9. Any conviction or
16 acquittal for any substantive offense under Section 136.1 or 646.9
17 shall be a bar to a subsequent punishment for contempt arising out
18 of the same act.

19 SEC. 140. Section 326.4 of the Penal Code is amended to read:

20 326.4. (a) Consistent with the Legislature's finding that
21 card-minding devices, as described in subdivision (p) of Section
22 326.5, are the only permissible electronic devices to be used by
23 charity bingo players, and in an effort to ease the transition to
24 remote caller bingo on the part of those nonprofit organizations
25 that, as of July 1, 2008, used electronic devices other than
26 card-minding devices to conduct games in reliance on an ordinance
27 of a city, county, or city and county that, as of July 1, 2008,
28 expressly recognized the operation of electronic devices other than
29 card-minding devices by organizations purportedly authorized to
30 conduct bingo in the city, county, or city and county, there is
31 hereby created the Charity Bingo Mitigation Fund.

32 (b) The Charity Bingo Mitigation Fund shall be administered
33 by the California Gambling Control Commission.

34 (c) Mitigation payments to be made by the Charity Bingo
35 Mitigation Fund shall not exceed five million dollars (\$5,000,000)
36 in the aggregate.

37 (d) (1) To allow the Charity Bingo Mitigation Fund to become
38 immediately operable, five million dollars (\$5,000,000) shall be
39 loaned from the accrued interest in the Indian Gaming Special
40 Distribution Fund to the Charity Bingo Mitigation Fund on or after

1 January 1, 2009, to make mitigation payments to eligible nonprofit
2 organizations. Five million dollars (\$5,000,000) of this loan amount
3 is hereby appropriated to the California Gambling Control
4 Commission for the purposes of providing mitigation payments
5 to certain charitable organizations, as described in subdivision (e).
6 Pursuant to Section 16304 of the Government Code, after three
7 years the unexpended balance shall revert back to the Charity
8 Bingo Mitigation Fund.

9 (2) To reimburse the Special Distribution Fund, those nonprofit
10 organizations that conduct a remote caller bingo game pursuant
11 to Section 326.3 shall pay to the California Gambling Control
12 Commission an amount equal to 5 percent of the gross revenues
13 of each remote caller bingo game played until that time as the full
14 advanced amount plus interest on the loan at the rate accruing to
15 moneys in the Pooled Money Investment Account is reimbursed.

16 (e) (1) An organization meeting the requirements in subdivision
17 (a) shall be eligible to receive mitigation payments from the Charity
18 Bingo Mitigation Fund only if the city, county, or city and county
19 in which the organization is located maintained official records of
20 the net revenues generated for the fiscal year ending June 30, 2008,
21 by the organization from the use of electronic devices or the
22 organization maintained audited financial records for the fiscal
23 year ending June 30, 2008, which show the net revenues generated
24 from the use of electronic devices.

25 (2) In addition, an organization applying for mitigation payments
26 shall provide proof that its board of directors has adopted a
27 resolution and its chief executive officer has signed a statement
28 executed under penalty of perjury stating that, as of January 1,
29 2009, the organization has ceased using electronic devices other
30 than card-minding devices, as described in subdivision (p) of
31 Section 326.5, as a fundraising tool.

32 (3) Each eligible organization may apply to the California
33 Gambling Control Commission no later than January 31, 2009,
34 for the mitigation payments in the amount equal to net revenues
35 from the fiscal year ending June 30, 2008, by filing an application,
36 including therewith documents and other proof of eligibility,
37 including any and all financial records documenting the
38 organization's net revenues for the fiscal year ending June 30,
39 2008, as the California Gambling Control Commission may require.
40 The California Gambling Control Commission is authorized to

1 access and examine the financial records of charities requesting
2 funding in order to confirm the legitimacy of the request for
3 funding. In the event that the total of those requests exceeds five
4 million dollars (\$5,000,000), payments to all eligible applicants
5 shall be reduced in proportion to each requesting organization’s
6 reported or audited net revenues from the operation of electronic
7 devices.

8 SEC. 141. Section 599f of the Penal Code is amended to read:

9 599f. (a) No slaughterhouse, stockyard, auction, market
10 agency, or dealer shall buy, sell, or receive a nonambulatory
11 animal.

12 (b) No slaughterhouse shall process, butcher, or sell meat or
13 products of nonambulatory animals for human consumption.

14 (c) No slaughterhouse shall hold a nonambulatory animal
15 without taking immediate action to humanely euthanize the animal.

16 (d) No stockyard, auction, market agency, or dealer shall hold
17 a nonambulatory animal without taking immediate action to
18 humanely euthanize the animal or to provide immediate veterinary
19 treatment.

20 (e) While in transit or on the premises of a stockyard, auction,
21 market agency, dealer, or slaughterhouse, a nonambulatory animal
22 may not be dragged at any time, or pushed with equipment at any
23 time, but shall be moved with a sling or on a stoneboat or other
24 sled-like or wheeled conveyance.

25 (f) No person shall sell, consign, or ship any nonambulatory
26 animal for the purpose of delivering a nonambulatory animal to a
27 slaughterhouse, stockyard, auction, market agency, or dealer.

28 (g) No person shall accept a nonambulatory animal for transport
29 or delivery to a slaughterhouse, stockyard, auction, market agency,
30 or dealer.

31 (h) A violation of this section is subject to imprisonment in a
32 county jail for a period not to exceed one year, or by a fine of not
33 more than twenty thousand dollars (\$20,000), or by both that fine
34 and imprisonment.

35 (i) As used in this section, “nonambulatory” means unable to
36 stand and walk without assistance.

37 (j) As used in this section, “animal” means live cattle, swine,
38 sheep, or goats.

1 (k) As used in this section, “humanely euthanize” means to kill
2 by a mechanical, chemical, or electrical method that rapidly and
3 effectively renders the animal insensitive to pain.

4 SEC. 142. Section 626.2 of the Penal Code is amended to read:

5 626.2. Every student or employee who, after a hearing, has
6 been suspended or dismissed from a community college, a state
7 university, the university, or a public or private school for
8 disrupting the orderly operation of the campus or facility of the
9 institution, and as a condition of the suspension or dismissal has
10 been denied access to the campus or facility, or both, of the
11 institution for the period of the suspension or in the case of
12 dismissal for a period not to exceed one year; who has been served
13 by registered or certified mail, at the last address given by that
14 person, with a written notice of the suspension or dismissal and
15 condition; and who willfully and knowingly enters upon the
16 campus or facility of the institution to which he or she has been
17 denied access, without the express written permission of the chief
18 administrative officer of the campus or facility, is guilty of a
19 misdemeanor and shall be punished as follows:

20 (a) Upon a first conviction, by a fine not exceeding five hundred
21 dollars (\$500), by imprisonment in a county jail for a period of
22 not more than six months, or by both that fine and imprisonment.

23 (b) If the defendant has been previously convicted once of a
24 violation of any offense defined in this chapter or Section 415.5,
25 by imprisonment in a county jail for a period of not less than 10
26 days or more than six months, or by both that imprisonment and
27 a fine not exceeding five hundred dollars (\$500), and shall not be
28 released on probation, parole, or any other basis until he or she
29 has served not less than 10 days.

30 (c) If the defendant has been previously convicted two or more
31 times of a violation of any offense defined in this chapter or Section
32 415.5, by imprisonment in a county jail for a period of not less
33 than 90 days or more than six months, or by both that imprisonment
34 and a fine not exceeding five hundred dollars (\$500), and shall not
35 be released on probation, parole, or any other basis until he or she
36 has served not less than 90 days.

37 Knowledge shall be presumed if notice has been given as
38 prescribed in this section. The presumption established by this
39 section is a presumption affecting the burden of proof.

40 SEC. 143. Section 626.8 of the Penal Code is amended to read:

1 626.8. (a) Any person who comes into any school building or
2 upon any school ground, or street, sidewalk, or public way adjacent
3 thereto, without lawful business thereon, and whose presence or
4 acts interfere with the peaceful conduct of the activities of the
5 school or disrupt the school or its pupils or school activities, is
6 guilty of a misdemeanor if he or she does any of the following:

7 (1) Remains there after being asked to leave by the chief
8 administrative official of that school or his or her designated
9 representative, or by a person employed as a member of a security
10 or police department of a school district pursuant to Section 39670
11 of the Education Code, or a city police officer, or sheriff or deputy
12 sheriff, or a Department of the California Highway Patrol peace
13 officer.

14 (2) Reenters or comes upon that place within seven days of
15 being asked to leave by a person specified in paragraph (1).

16 (3) Has otherwise established a continued pattern of
17 unauthorized entry.

18 This section shall not be utilized to impinge upon the lawful
19 exercise of constitutionally protected rights of freedom of speech
20 or assembly.

21 (b) Punishment for violation of this section shall be as follows:

22 (1) Upon a first conviction by a fine not exceeding five hundred
23 dollars (\$500), by imprisonment in a county jail for a period of
24 not more than six months, or by both that fine and imprisonment.

25 (2) If the defendant has been previously convicted once of a
26 violation of any offense defined in this chapter or Section 415.5,
27 by imprisonment in a county jail for a period of not less than 10
28 days or more than six months, or by both imprisonment and a fine
29 not exceeding five hundred dollars (\$500), and shall not be released
30 on probation, parole, or any other basis until he or she has served
31 not less than 10 days.

32 (3) If the defendant has been previously convicted two or more
33 times of a violation of any offense defined in this chapter or Section
34 415.5, by imprisonment in a county jail for a period of not less
35 than 90 days or more than six months, or by both imprisonment
36 and a fine not exceeding five hundred dollars (\$500), and shall not
37 be released on probation, parole, or any other basis until he or she
38 has served not less than 90 days.

39 (c) As used in this section, the following definitions apply:

1 (1) “Lawful business” means a reason for being present upon
2 school property which is not otherwise prohibited by statute, by
3 ordinance, or by any regulation adopted pursuant to statute or
4 ordinance.

5 (2) “Continued pattern of unauthorized entry” means that on at
6 least two prior occasions in the same school year the defendant
7 came into any school building or upon any school ground, or street,
8 sidewalk, or public way adjacent thereto, without lawful business
9 thereon, and his or her presence or acts interfered with the peaceful
10 conduct of the activities of the school or disrupted the school or
11 its pupils or school activities, and the defendant was asked to leave
12 by a person specified in paragraph (1) of subdivision (a).

13 (3) “School” means any preschool or public or private school
14 having kindergarten or any of grades 1 to 12, inclusive.

15 (d) When a person is directed to leave pursuant to paragraph
16 (1) of subdivision (a), the person directing him or her to leave shall
17 inform the person that if he or she reenters the place within seven
18 days he or she will be guilty of a crime.

19 SEC. 144. Section 653.2 of the Penal Code is amended to read:

20 653.2. (a) Every person who, with intent to place another
21 person in reasonable fear for his or her safety, or the safety of the
22 other person’s immediate family, by means of an electronic
23 communication device, and without consent of the other person,
24 and for the purpose of imminently causing that other person
25 unwanted physical contact, injury, or harassment, by a third party,
26 electronically distributes, publishes, e-mails, hyperlinks, or makes
27 available for downloading, personal identifying information,
28 including, but not limited to, a digital image of another person, or
29 an electronic message of a harassing nature about another person,
30 which would be likely to incite or produce that unlawful action,
31 is guilty of a misdemeanor punishable by up to one year in a county
32 jail, by a fine of not more than one thousand dollars (\$1,000), or
33 by both that fine and imprisonment.

34 (b) For purposes of this section, “electronic communication
35 device” includes, but is not limited to, telephones, cell phones,
36 computers, Internet Web pages or sites, Internet phones, hybrid
37 cellular/Internet/wireless devices, personal digital assistants
38 (PDAs), video recorders, fax machines, or pagers. “Electronic
39 communication” has the same meaning as the term is defined in
40 Section 2510(12) of Title 18 of the United States Code.

1 (c) For purposes of this section, the following terms apply:

2 (1) “Harassment” means a knowing and willful course of
3 conduct directed at a specific person that a reasonable person would
4 consider as seriously alarming, seriously annoying, seriously
5 tormenting, or seriously terrorizing the person and that serves no
6 legitimate purpose.

7 (2) “Of a harassing nature” means of a nature that a reasonable
8 person would consider as seriously alarming, seriously annoying,
9 seriously tormenting, or seriously terrorizing of the person and
10 that serves no legitimate purpose.

11 SEC. 145. Section 831.5 of the Penal Code is amended to read:

12 831.5. (a) As used in this section, a custodial officer is a public
13 officer, not a peace officer, employed by a law enforcement agency
14 of San Diego County, Fresno County, Kern County, Stanislaus
15 County, Riverside County, Santa Clara County, or a county having
16 a population of 425,000 or less who has the authority and
17 responsibility for maintaining custody of prisoners and performs
18 tasks related to the operation of a local detention facility used for
19 the detention of persons usually pending arraignment or upon court
20 order either for their own safekeeping or for the specific purpose
21 of serving a sentence therein. Custodial officers of a county shall
22 be employees of, and under the authority of, the sheriff, except in
23 counties in which the sheriff, as of July 1, 1993, is not in charge
24 of and the sole and exclusive authority to keep the county jail and
25 the prisoners in it. A custodial officer includes a person designated
26 as a correctional officer, jailer, or other similar title. The duties of
27 a custodial officer may include the serving of warrants, court
28 orders, writs, and subpoenas in the detention facility or under
29 circumstances arising directly out of maintaining custody of
30 prisoners and related tasks.

31 (b) A custodial officer has no right to carry or possess firearms
32 in the performance of his or her prescribed duties, except, under
33 the direction of the sheriff or chief of police, while engaged in
34 transporting prisoners; guarding hospitalized prisoners; or
35 suppressing jail riots, lynchings, escapes, or rescues in or about a
36 detention facility falling under the care and custody of the sheriff
37 or chief of police.

38 (c) Each person described in this section as a custodial officer
39 shall, within 90 days following the date of the initial assignment
40 to that position, satisfactorily complete the training course specified

1 in Section 832. In addition, each person designated as a custodial
2 officer shall, within one year following the date of the initial
3 assignment as a custodial officer, have satisfactorily met the
4 minimum selection and training standards prescribed by the
5 Corrections Standards Authority pursuant to Section 6035. Persons
6 designated as custodial officers, before the expiration of the 90-day
7 and one-year periods described in this subdivision, who have not
8 yet completed the required training, shall not carry or possess
9 firearms in the performance of their prescribed duties, but may
10 perform the duties of a custodial officer only while under the direct
11 supervision of a peace officer, as described in Section 830.1, who
12 has completed the training prescribed by the Commission on Peace
13 Officer Standards and Training, or a custodial officer who has
14 completed the training required in this section.

15 (d) At any time 20 or more custodial officers are on duty, there
16 shall be at least one peace officer, as described in Section 830.1,
17 on duty at the same time to supervise the performance of the
18 custodial officers.

19 (e) This section shall not be construed to confer any authority
20 upon any custodial officer except while on duty.

21 (f) A custodial officer may use reasonable force in establishing
22 and maintaining custody of persons delivered to him or her by a
23 law enforcement officer; may make arrests for misdemeanors and
24 felonies within the local detention facility pursuant to a duly issued
25 warrant; may make warrantless arrests pursuant to Section 836.5
26 only during the duration of his or her job; may release without
27 further criminal process persons arrested for intoxication; and may
28 release misdemeanants on citation to appear in lieu of or after
29 booking.

30 (g) Custodial officers employed by the Santa Clara County
31 Department of Corrections are authorized to perform the following
32 additional duties in the facility:

33 (1) Arrest a person without a warrant whenever the custodial
34 officer has reasonable cause to believe that the person to be arrested
35 has committed a misdemeanor or felony in the presence of the
36 officer that is a violation of a statute or ordinance that the officer
37 has the duty to enforce.

38 (2) Search property, cells, prisoners or visitors.

39 (3) Conduct strip or body cavity searches of prisoners pursuant
40 to Section 4030.

1 (4) Conduct searches and seizures pursuant to a duly issued
2 warrant.

3 (5) Segregate prisoners.

4 (6) Classify prisoners for the purpose of housing or participation
5 in supervised activities.

6 These duties may be performed at the Santa Clara Valley Medical
7 Center as needed and only as they directly relate to guarding
8 inpatient, in-custody inmates. This subdivision shall not be
9 construed to authorize the performance of any law enforcement
10 activity involving any person other than the inmate or his or her
11 visitors.

12 (h) Nothing in this section shall authorize a custodial officer to
13 carry or possess a firearm when the officer is not on duty.

14 (i) It is the intent of the Legislature that this section, as it relates
15 to Santa Clara County, enumerate specific duties of custodial
16 officers (known as “correctional officers” in Santa Clara County)
17 and to clarify the relationships of the correctional officers and
18 deputy sheriffs in Santa Clara County. These duties are the same
19 duties of the custodial officers prior to the date of enactment of
20 Chapter 635 of the Statutes of 1999 pursuant to local rules and
21 judicial decisions. It is further the intent of the Legislature that all
22 issues regarding compensation for custodial officers remain subject
23 to the collective bargaining process between the County of Santa
24 Clara and the authorized bargaining representative for the custodial
25 officers. However, nothing in this section shall be construed to
26 assert that the duties of custodial officers are equivalent to the
27 duties of deputy sheriffs nor to affect the ability of the county to
28 negotiate pay that reflects the different duties of custodial officers
29 and deputy sheriffs.

30 (j) This section shall become operative on January 1, 2003.

31 SEC. 146. Section 1170.3 of the Penal Code, as amended by
32 Section 3 of Chapter 416 of the Statutes of 2008, is amended to
33 read:

34 1170.3. The Judicial Council shall seek to promote uniformity
35 in sentencing under Section 1170 by:

36 (a) The adoption of rules providing criteria for the consideration
37 of the trial judge at the time of sentencing regarding the court’s
38 decision to:

39 (1) Grant or deny probation.

40 (2) Impose the lower, middle, or upper prison term.

- 1 (3) Impose concurrent or consecutive sentences.
- 2 (4) Determine whether or not to impose an enhancement where
- 3 that determination is permitted by law.
- 4 (b) The adoption of rules standardizing the minimum content
- 5 and the sequential presentation of material in probation officer
- 6 reports submitted to the court.
- 7 (c) This section shall remain in effect only until January 1, 2011,
- 8 and as of that date is repealed, unless a later enacted statute, that
- 9 is enacted before January 1, 2011, deletes or extends that date.

10 SEC. 147. Section 1170.3 of the Penal Code, as amended by

11 Section 4 of Chapter 416 of the Statutes of 2008, is amended to

12 read:

13 1170.3. The Judicial Council shall seek to promote uniformity

14 in sentencing under Section 1170 by:

- 15 (a) The adoption of rules providing criteria for the consideration
- 16 of the trial judge at the time of sentencing regarding the court's
- 17 decision to:
 - 18 (1) Grant or deny probation.
 - 19 (2) Impose the lower or upper prison term.
 - 20 (3) Impose concurrent or consecutive sentences.

- 21 (4) Determine whether or not to impose an enhancement where
- 22 that determination is permitted by law.

- 23 (b) The adoption of rules standardizing the minimum content
- 24 and the sequential presentation of material in probation officer
- 25 reports submitted to the court.

- 26 (c) This section shall become operative on January 1, 2011.

27 SEC. 148. Section 1369.1 of the Penal Code is amended to

28 read:

29 1369.1. (a) As used in this chapter, for the sole purpose of

30 administering antipsychotic medication pursuant to a court order,

31 "treatment facility" includes a county jail. Upon the concurrence

32 of the county board of supervisors, the county mental health

33 director, and the county sheriff, the jail may be designated to

34 provide medically approved medication to defendants found to be

35 mentally incompetent and unable to provide informed consent due

36 to a mental disorder, pursuant to this chapter. In the case of Madera,

37 Napa, and Santa Clara Counties, the concurrence shall be with the

38 board of supervisors, the county mental health director, and the

39 county sheriff or the chief of corrections. The provisions of

40 Sections 1370 and 1370.01 shall apply to antipsychotic medications

1 provided in a county jail, provided, however, that the maximum
2 period of time a defendant may be treated in a treatment facility
3 pursuant to this section shall not exceed six months.

4 (b) The State Department of Mental Health shall report to the
5 Legislature on or before January 1, 2009, on all of the following:

6 (1) The number of defendants in the state who are incompetent
7 to stand trial.

8 (2) The resources available at state hospitals and local mental
9 health facilities, other than jails, for returning these defendants to
10 competence.

11 (3) Additional resources that are necessary to reasonably treat,
12 in a reasonable period of time, at the state and local levels,
13 excluding jails, defendants who are incompetent to stand trial.

14 (4) What, if any, statewide standards and organizations exist
15 concerning local treatment facilities that could treat defendants
16 who are incompetent to stand trial.

17 (5) Address the concerns regarding defendants who are
18 incompetent to stand trial who are currently being held in jail
19 awaiting treatment.

20 (c) This section does not abrogate or limit any provision of law
21 enacted to ensure the due process rights set forth in *Sell v. United*
22 *States* (2003) 539 U.S. 166.

23 (d) This section shall remain in effect only until January 1, 2010,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2010, deletes or extends that date.

26 SEC. 149. Section 12011 of the Penal Code is amended to read:
27 12011. The Prohibited Armed Persons File database shall
28 function as follows:

29 (a) Upon entry into the Automated Criminal History System of
30 a disposition for a conviction of any felony, a conviction for any
31 firearms-prohibiting charge specified in Section 12021, a
32 conviction for an offense described in Section 12021.1, a firearms
33 prohibition pursuant to Section 8100 or 8103 of the Welfare and
34 Institutions Code, or any firearms possession prohibition identified
35 by the federal National Instant Criminal Background Check
36 System, the Department of Justice shall determine if the subject
37 has an entry in the Consolidated Firearms Information System
38 indicating possession or ownership of a firearm on or after January
39 1, 1991, or an assault weapon registration, or a .50 BMG rifle
40 registration.

1 (b) Upon an entry into any department automated information
2 system that is used for the identification of persons who are
3 prohibited by state or federal law from acquiring, owning, or
4 possessing firearms, the department shall determine if the subject
5 has an entry in the Consolidated Firearms Information System
6 indicating ownership or possession of a firearm on or after January
7 1, 1991, or an assault weapon registration, or a .50 BMG rifle
8 registration.

9 (c) If the department determines that, pursuant to subdivision
10 (a) or (b), the subject has an entry in the Consolidated Firearms
11 Information System indicating possession or ownership of a firearm
12 on or after January 1, 1991, or an assault weapon registration, or
13 a .50 BMG rifle registration, the following information shall be
14 entered into the Prohibited Armed Persons File:

15 (1) The subject's name.

16 (2) The subject's date of birth.

17 (3) The subject's physical description.

18 (4) Any other identifying information regarding the subject that
19 is deemed necessary by the Attorney General.

20 (5) The basis of the firearms possession prohibition.

21 (6) A description of all firearms owned or possessed by the
22 subject, as reflected by the Consolidated Firearms Information
23 System.

24 SEC. 150. Section 12071 of the Penal Code is amended to read:

25 12071. (a) (1) As used in this chapter, "licensee," "person
26 licensed pursuant to Section 12071," or "dealer" means a person
27 who has all of the following:

28 (A) A valid federal firearms license.

29 (B) Any regulatory or business license, or licenses, required by
30 local government.

31 (C) A valid seller's permit issued by the State Board of
32 Equalization.

33 (D) A certificate of eligibility issued by the Department of
34 Justice pursuant to paragraph (4).

35 (E) A license issued in the format prescribed by paragraph (6).

36 (F) Is among those recorded in the centralized list specified in
37 subdivision (e).

38 (2) The duly constituted licensing authority of a city, county,
39 or a city and county shall accept applications for, and may grant
40 licenses permitting, licensees to sell firearms at retail within the

1 city, county, or city and county. The duly constituted licensing
2 authority shall inform applicants who are denied licenses of the
3 reasons for the denial in writing.

4 (3) No license shall be granted to any applicant who fails to
5 provide a copy of his or her valid federal firearms license, valid
6 seller's permit issued by the State Board of Equalization, and the
7 certificate of eligibility described in paragraph (4).

8 (4) A person may request a certificate of eligibility from the
9 Department of Justice. The Department of Justice shall examine
10 its records and records available to the department in the National
11 Instant Criminal Background Check System in order to determine
12 if the applicant is prohibited by state or federal law from
13 possessing, receiving, owning, or purchasing a firearm and issue
14 a certificate to an applicant if the department's records indicate
15 that the applicant is not a person who is prohibited by state or
16 federal law from possessing firearms.

17 (5) The department shall adopt regulations to administer the
18 certificate of eligibility program and shall recover the full costs of
19 administering the program by imposing fees assessed to applicants
20 who apply for those certificates.

21 (6) A license granted by the duly constituted licensing authority
22 of any city, county, or city and county, shall be valid for not more
23 than one year from the date of issuance and shall be in one of the
24 following forms:

25 (A) In the form prescribed by the Attorney General.

26 (B) A regulatory or business license that states on its face "Valid
27 for Retail Sales of Firearms" and is endorsed by the signature of
28 the issuing authority.

29 (C) A letter from the duly constituted licensing authority having
30 primary jurisdiction for the applicant's intended business location
31 stating that the jurisdiction does not require any form of regulatory
32 or business license or does not otherwise restrict or regulate the
33 sale of firearms.

34 (7) Local licensing authorities may assess fees to recover their
35 full costs of processing applications for licenses.

36 (b) A license is subject to forfeiture for a breach of any of the
37 following prohibitions and requirements:

38 (1) (A) Except as provided in subparagraphs (B) and (C), the
39 business shall be conducted only in the buildings designated in the
40 license.

1 (B) A person licensed pursuant to subdivision (a) may take
2 possession of firearms and commence preparation of registers for
3 the sale, delivery, or transfer of firearms at gun shows or events,
4 as defined in Section 478.100 of Title 27 of the Code of Federal
5 Regulations, or its successor, if the gun show or event is not
6 conducted from any motorized or towed vehicle. A person
7 conducting business pursuant to this subparagraph shall be entitled
8 to conduct business as authorized herein at any gun show or event
9 in the state without regard to the jurisdiction within this state that
10 issued the license pursuant to subdivision (a), provided the person
11 complies with (i) all applicable laws, including, but not limited to,
12 the waiting period specified in subparagraph (A) of paragraph (3),
13 and (ii) all applicable local laws, regulations, and fees, if any.

14 A person conducting business pursuant to this subparagraph
15 shall publicly display his or her license issued pursuant to
16 subdivision (a), or a facsimile thereof, at any gun show or event,
17 as specified in this subparagraph.

18 (C) A person licensed pursuant to subdivision (a) may engage
19 in the sale and transfer of firearms other than pistols, revolvers, or
20 other firearms capable of being concealed upon the person, at
21 events specified in subdivision (g) of Section 12078, subject to
22 the prohibitions and restrictions contained in that subdivision.

23 A person licensed pursuant to subdivision (a) also may accept
24 delivery of firearms other than pistols, revolvers, or other firearms
25 capable of being concealed upon the person, outside the building
26 designated in the license, provided that the firearm is being donated
27 for the purpose of sale or transfer at an auction or similar event
28 specified in subdivision (g) of Section 12078.

29 (D) The firearm may be delivered to the purchaser, transferee,
30 or person being loaned the firearm at one of the following places:

- 31 (i) The building designated in the license.
- 32 (ii) The places specified in subparagraph (B) or (C).
- 33 (iii) The place of residence of, the fixed place of business of,
34 or on private property owned or lawfully possessed by, the
35 purchaser, transferee, or person being loaned the firearm.

36 (2) The license or a copy thereof, certified by the issuing
37 authority, shall be displayed on the premises where it can easily
38 be seen.

39 (3) No firearm shall be delivered:

1 (A) Within 10 days of the application to purchase, or, after
2 notice by the department pursuant to subdivision (d) of Section
3 12076, within 10 days of the submission to the department of any
4 correction to the application, or within 10 days of the submission
5 to the department of any fee required pursuant to subdivision (e)
6 of Section 12076, whichever is later.

7 (B) Unless unloaded and securely wrapped or unloaded and in
8 a locked container.

9 (C) Unless the purchaser, transferee, or person being loaned the
10 firearm presents clear evidence of his or her identity and age to
11 the dealer.

12 (D) Whenever the dealer is notified by the Department of Justice
13 that the person is prohibited by state or federal law from possessing,
14 owning, purchasing, or receiving a firearm. The dealer shall make
15 available to the person in the prohibited class a prohibited notice
16 and transfer form, provided by the department, stating that the
17 person is prohibited from owning or possessing a firearm, and that
18 the person may obtain from the department the reason for the
19 prohibition.

20 (4) No pistol, revolver, or other firearm or imitation thereof
21 capable of being concealed upon the person, or placard advertising
22 the sale or other transfer thereof, shall be displayed in any part of
23 the premises where it can readily be seen from the outside.

24 (5) The licensee shall agree to and shall act properly and
25 promptly in processing firearms transactions pursuant to Section
26 12082.

27 (6) The licensee shall comply with Sections 12073, 12076, and
28 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
29 (f) of Section 12072, and subdivision (a) of Section 12316.

30 (7) The licensee shall post conspicuously within the licensed
31 premises the following warnings in block letters not less than one
32 inch in height:

33 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
34 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
35 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
36 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
37 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
38 MISDEMEANOR OR A FELONY UNLESS YOU STORED
39 THE FIREARM IN A LOCKED CONTAINER OR LOCKED

1 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
2 FROM TEMPORARILY FUNCTIONING.”

3 (B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
4 FIREARM CAPABLE OF BEING CONCEALED UPON THE
5 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
6 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
7 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
8 OFF-PREMISES, YOU MAY BE GUILTY OF A
9 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
10 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
11 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
12 FUNCTIONING.”

13 (C) “IF YOU KEEP ANY FIREARM WITHIN ANY
14 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
15 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
16 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
17 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
18 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
19 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
20 STORED THE FIREARM IN A LOCKED CONTAINER, OR
21 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

22 (D) “DISCHARGING FIREARMS IN POORLY
23 VENTILATED AREAS, CLEANING FIREARMS, OR
24 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
25 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
26 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
27 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
28 ALL TIMES. WASH HANDS THOROUGHLY AFTER
29 EXPOSURE.”

30 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
31 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
32 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
33 DAYS AFTER YOU COMPLETE THE INITIAL
34 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
35 TO GO THROUGH THE BACKGROUND CHECK PROCESS
36 A SECOND TIME IN ORDER TO TAKE PHYSICAL
37 POSSESSION OF THAT FIREARM.”

38 (F) “NO PERSON SHALL MAKE AN APPLICATION TO
39 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
40 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON

1 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO
2 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS
3 MADE AN APPLICATION TO PURCHASE MORE THAN ONE
4 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF
5 BEING CONCEALED UPON THE PERSON WITHIN ANY
6 30-DAY PERIOD.”

7 (8) (A) Commencing April 1, 1994, and until January 1, 2003,
8 no pistol, revolver, or other firearm capable of being concealed
9 upon the person shall be delivered unless the purchaser, transferee,
10 or person being loaned the firearm presents to the dealer a basic
11 firearms safety certificate.

12 (B) Commencing January 1, 2003, no dealer may deliver a
13 handgun unless the person receiving the handgun presents to the
14 dealer a valid handgun safety certificate. The firearms dealer shall
15 retain a photocopy of the handgun safety certificate as proof of
16 compliance with this requirement.

17 (C) Commencing January 1, 2003, no handgun may be delivered
18 unless the purchaser, transferee, or person being loaned the firearm
19 presents documentation indicating that he or she is a California
20 resident. Satisfactory documentation shall include a utility bill
21 from within the last three months, a residential lease, a property
22 deed, or military permanent duty station orders indicating
23 assignment within this state, or other evidence of residency as
24 permitted by the Department of Justice. The firearms dealer shall
25 retain a photocopy of the documentation as proof of compliance
26 with this requirement.

27 (D) Commencing January 1, 2003, except as authorized by the
28 department, no firearms dealer may deliver a handgun unless the
29 recipient performs a safe handling demonstration with that
30 handgun. The demonstration shall commence with the handgun
31 unloaded and locked with the firearm safety device with which it
32 is required to be delivered, if applicable. While maintaining muzzle
33 awareness, that is, the firearm is pointed in a safe direction,
34 preferably down at the ground, and trigger discipline, that is, the
35 trigger finger is outside of the trigger guard and along side of the
36 handgun frame, at all times, the handgun recipient shall correctly
37 and safely perform the following:

38 (i) If the handgun is a semiautomatic pistol:

39 (I) Remove the magazine.

- 1 (II) Lock the slide back. If the model of firearm does not allow
2 the slide to be locked back, pull the slide back, visually and
3 physically check the chamber to ensure that it is clear.
- 4 (III) Visually and physically inspect the chamber, to ensure that
5 the handgun is unloaded.
- 6 (IV) Remove the firearm safety device, if applicable. If the
7 firearm safety device prevents any of the previous steps, remove
8 the firearm safety device during the appropriate step.
- 9 (V) Load one bright orange, red, or other readily identifiable
10 dummy round into the magazine. If no readily identifiable dummy
11 round is available, an empty cartridge casing with an empty primer
12 pocket may be used.
- 13 (VI) Insert the magazine into the magazine well of the firearm.
- 14 (VII) Manipulate the slide release or pull back and release the
15 slide.
- 16 (VIII) Remove the magazine.
- 17 (IX) Visually inspect the chamber to reveal that a round can be
18 chambered with the magazine removed.
- 19 (X) Lock the slide back to eject the bright orange, red, or other
20 readily identifiable dummy round. If the handgun is of a model
21 that does not allow the slide to be locked back, pull the slide back
22 and physically check the chamber to ensure that the chamber is
23 clear. If no readily identifiable dummy round is available, an empty
24 cartridge casing with an empty primer pocket may be used.
- 25 (XI) Apply the safety, if applicable.
- 26 (XII) Apply the firearm safety device, if applicable. This
27 requirement shall not apply to an Olympic competition pistol if
28 no firearms safety device, other than a cable lock that the
29 department has determined would damage the barrel of the pistol,
30 has been approved for the pistol, and the pistol is either listed in
31 paragraph (2) of subdivision (h) of Section 12132 or is subject to
32 paragraph (3) of subdivision (h) of Section 12132.
- 33 (ii) If the handgun is a double-action revolver:
 - 34 (I) Open the cylinder.
 - 35 (II) Visually and physically inspect each chamber, to ensure
36 that the revolver is unloaded.
 - 37 (III) Remove the firearm safety device. If the firearm safety
38 device prevents any of the previous steps, remove the firearm
39 safety device during the appropriate step.

1 (IV) While maintaining muzzle awareness and trigger discipline,
2 load one bright orange, red, or other readily identifiable dummy
3 round into a chamber of the cylinder and rotate the cylinder so that
4 the round is in the next-to-fire position. If no readily identifiable
5 dummy round is available, an empty cartridge casing with an empty
6 primer pocket may be used.

7 (V) Close the cylinder.

8 (VI) Open the cylinder and eject the round.

9 (VII) Visually and physically inspect each chamber, to ensure
10 that the revolver is unloaded.

11 (VIII) Apply the firearm safety device, if applicable. This
12 requirement shall not apply to an Olympic competition pistol if
13 no firearms safety device, other than a cable lock that the
14 department has determined would damage the barrel of the pistol,
15 has been approved for the pistol, and the pistol is either listed in
16 paragraph (2) of subdivision (h) of Section 12132 or is subject to
17 paragraph (3) of subdivision (h) of Section 12132.

18 (iii) If the handgun is a single-action revolver:

19 (I) Open the loading gate.

20 (II) Visually and physically inspect each chamber, to ensure
21 that the revolver is unloaded.

22 (III) Remove the firearm safety device required to be sold with
23 the handgun. If the firearm safety device prevents any of the
24 previous steps, remove the firearm safety device during the
25 appropriate step.

26 (IV) Load one bright orange, red, or other readily identifiable
27 dummy round into a chamber of the cylinder, close the loading
28 gate and rotate the cylinder so that the round is in the next-to-fire
29 position. If no readily identifiable dummy round is available, an
30 empty cartridge casing with an empty primer pocket may be used.

31 (V) Open the loading gate and unload the revolver.

32 (VI) Visually and physically inspect each chamber, to ensure
33 that the revolver is unloaded.

34 (VII) Apply the firearm safety device, if applicable. This
35 requirement shall not apply to an Olympic competition pistol if
36 no firearms safety device, other than a cable lock that the
37 department has determined would damage the barrel of the pistol,
38 has been approved for the pistol, and the pistol is either listed in
39 paragraph (2) of subdivision (h) of Section 12132 or is subject to
40 paragraph (3) of subdivision (h) of Section 12132.

1 (E) The recipient shall receive instruction regarding how to
2 render that handgun safe in the event of a jam.

3 (F) The firearms dealer shall sign and date an affidavit stating
4 that the requirements of subparagraph (D) have been met. The
5 firearms dealer shall additionally obtain the signature of the
6 handgun purchaser on the same affidavit. The firearms dealer shall
7 retain the original affidavit as proof of compliance with this
8 requirement.

9 (G) The recipient shall perform the safe handling demonstration
10 for a department-certified instructor.

11 (H) No demonstration shall be required if the dealer is returning
12 the handgun to the owner of the handgun.

13 (I) Department-certified instructors who may administer the
14 safe handling demonstration shall meet the requirements set forth
15 in subdivision (j) of Section 12804.

16 (J) The persons who are exempt from the requirements of
17 subdivision (b) of Section 12801, pursuant to Section 12807, are
18 also exempt from performing the safe handling demonstration.

19 (9) Commencing July 1, 1992, the licensee shall offer to provide
20 the purchaser or transferee of a firearm, or person being loaned a
21 firearm, with a copy of the pamphlet described in Section 12080
22 and may add the cost of the pamphlet, if any, to the sales price of
23 the firearm.

24 (10) The licensee shall not commit an act of collusion as defined
25 in Section 12072.

26 (11) The licensee shall post conspicuously within the licensed
27 premises a detailed list of each of the following:

28 (A) All charges required by governmental agencies for
29 processing firearm transfers required by Sections 12076, 12082,
30 and 12806.

31 (B) All fees that the licensee charges pursuant to Sections 12082
32 and 12806.

33 (12) The licensee shall not misstate the amount of fees charged
34 by a governmental agency pursuant to Sections 12076, 12082, and
35 12806.

36 (13) Except as provided in subparagraphs (B) and (C) of
37 paragraph (1) of subdivision (b), all firearms that are in the
38 inventory of the licensee shall be kept within the licensed location.
39 The licensee shall report the loss or theft of any firearm that is
40 merchandise of the licensee, any firearm that the licensee takes

1 possession of pursuant to Section 12082, or any firearm kept at
2 the licensee's place of business within 48 hours of discovery to
3 the appropriate law enforcement agency in the city, county, or city
4 and county where the licensee's business premises are located.

5 (14) Except as provided in subparagraphs (B) and (C) of
6 paragraph (1) of subdivision (b), any time when the licensee is not
7 open for business, all inventory firearms shall be stored in the
8 licensed location. All firearms shall be secured using one of the
9 following methods as to each particular firearm:

10 (A) Store the firearm in a secure facility that is a part of, or that
11 constitutes, the licensee's business premises.

12 (B) Secure the firearm with a hardened steel rod or cable of at
13 least one-eighth inch in diameter through the trigger guard of the
14 firearm. The steel rod or cable shall be secured with a hardened
15 steel lock that has a shackle. The lock and shackle shall be
16 protected or shielded from the use of a boltcutter and the rod or
17 cable shall be anchored in a manner that prevents the removal of
18 the firearm from the premises.

19 (C) Store the firearm in a locked fireproof safe or vault in the
20 licensee's business premises.

21 (15) The licensing authority in an unincorporated area of a
22 county or within a city may impose security requirements that are
23 more strict or are at a higher standard than those specified in
24 paragraph (14).

25 (16) Commencing January 1, 1994, the licensee shall, upon the
26 issuance or renewal of a license, submit a copy of the same to the
27 Department of Justice.

28 (17) The licensee shall maintain and make available for
29 inspection during business hours to any peace officer, authorized
30 local law enforcement employee, or Department of Justice
31 employee designated by the Attorney General, upon the
32 presentation of proper identification, a firearms transaction record.

33 (18) (A) On the date of receipt, the licensee shall report to the
34 Department of Justice in a format prescribed by the department
35 the acquisition by the licensee of the ownership of a pistol,
36 revolver, or other firearm capable of being concealed upon the
37 person.

38 (B) The provisions of this paragraph shall not apply to any of
39 the following transactions:

- 1 (i) A transaction subject to the provisions of subdivision (n) of
2 Section 12078.
- 3 (ii) The dealer acquired the firearm from a wholesaler.
- 4 (iii) The dealer is also licensed as a secondhand dealer pursuant
5 to Article 4 (commencing with Section 21625) of Chapter 9 of
6 Division 8 of the Business and Professions Code.
- 7 (iv) The dealer acquired the firearm from a person who is
8 licensed as a manufacturer or importer to engage in those activities
9 pursuant to Chapter 44 (commencing with Section 921) of Title
10 18 of the United States Code and any regulations issued pursuant
11 thereto.
- 12 (v) The dealer acquired the firearm from a person who resides
13 outside this state who is licensed pursuant to Section 921 and
14 following of Title 18 of the United States Code and any regulations
15 issued pursuant thereto.
- 16 (19) The licensee shall forward in a format prescribed by the
17 Department of Justice, information as required by the department
18 on any firearm that is not delivered within the time period set forth
19 in Section 478.102 (c) of Title 27 of the Code of Federal
20 Regulations.
- 21 (20) (A) Firearms dealers may require any agent who handles,
22 sells, or delivers firearms to obtain and provide to the dealer a
23 certificate of eligibility from the department pursuant to paragraph
24 (4) of subdivision (a). The agent or employee shall provide on the
25 application the name and California firearms dealer number of the
26 firearms dealer with whom he or she is employed.
- 27 (B) The department shall notify the firearms dealer in the event
28 that the agent or employee who has a certificate of eligibility is or
29 becomes prohibited from possessing firearms.
- 30 (C) If the local jurisdiction requires a background check of the
31 agents or employees of the firearms dealer, the agent or employee
32 shall obtain a certificate of eligibility pursuant to subparagraph
33 (A).
- 34 (D) Nothing in this paragraph shall be construed to preclude a
35 local jurisdiction from conducting an additional background check
36 pursuant to Section 11105 or prohibiting employment based on
37 criminal history that does not appear as part of obtaining a
38 certificate of eligibility, provided, however, that the local
39 jurisdiction may not charge a fee for the additional criminal history
40 check.

1 (E) The licensee shall prohibit any agent who the licensee knows
2 or reasonably should know is within a class of persons prohibited
3 from possessing firearms pursuant to Section 12021 or 12021.1
4 of this code, or Section 8100 or 8103 of the Welfare and
5 Institutions Code, from coming into contact with any firearm that
6 is not secured and from accessing any key, combination, code, or
7 other means to open any of the locking devices described in clause
8 (ii) of subparagraph (G).

9 (F) Nothing in this paragraph shall be construed as preventing
10 a local government from enacting an ordinance imposing additional
11 conditions on licensees with regard to agents.

12 (G) For purposes of this section, the following definitions shall
13 apply:

14 (i) An “agent” is an employee of the licensee.

15 (ii) “Secured” means a firearm that is made inoperable in one
16 or more of the following ways:

17 (I) The firearm is inoperable because it is secured by a firearms
18 safety device listed on the department’s roster of approved firearms
19 safety devices pursuant to subdivision (d) of Section 12088.

20 (II) The firearm is stored in a locked gun safe or long-gun safe
21 which meets the standards for department-approved gun safes set
22 forth in Section 12088.2.

23 (III) The firearm is stored in a distinct locked room or area in
24 the building that is used to store firearms that can only be unlocked
25 by a key, a combination, or similar means.

26 (IV) The firearm is secured with a hardened steel rod or cable
27 that is at least one-eighth of an inch in diameter through the trigger
28 guard of the firearm. The steel rod or cable shall be secured with
29 a hardened steel lock that has a shackle. The lock and shackle shall
30 be protected or shielded from the use of a boltcutter and the rod
31 or cable shall be anchored in a manner that prevents the removal
32 of the firearm from the premises.

33 (c) (1) As used in this article, “clear evidence of his or her
34 identity and age” means either of the following:

35 (A) A valid California driver’s license.

36 (B) A valid California identification card issued by the
37 Department of Motor Vehicles.

38 (2) As used in this section, a “secure facility” means a building
39 that meets all of the following specifications:

40 (A) All perimeter doorways shall meet one of the following:

- 1 (i) A windowless steel security door equipped with both a dead
2 bolt and a doorknob lock.
- 3 (ii) A windowed metal door that is equipped with both a dead
4 bolt and a doorknob lock. If the window has an opening of five
5 inches or more measured in any direction, the window shall be
6 covered with steel bars of at least ½-inch diameter or metal grating
7 of at least 9 gauge affixed to the exterior or interior of the door.
- 8 (iii) A metal grate that is padlocked and affixed to the licensee’s
9 premises independent of the door and doorframe.
- 10 (B) All windows are covered with steel bars.
- 11 (C) Heating, ventilating, air-conditioning, and service openings
12 are secured with steel bars, metal grating, or an alarm system.
- 13 (D) Any metal grates have spaces no larger than six inches wide
14 measured in any direction.
- 15 (E) Any metal screens have spaces no larger than three inches
16 wide measured in any direction.
- 17 (F) All steel bars shall be no further than six inches apart.
- 18 (3) As used in this section, “licensed premises,” “licensed place
19 of business,” “licensee’s place of business,” or “licensee’s business
20 premises” means the building designated in the license.
- 21 (4) For purposes of paragraph (17) of subdivision (b):
- 22 (A) A “firearms transaction record” is a record containing the
23 same information referred to in subdivision (a) of Section 478.124,
24 Section 478.124a, and subdivision (e) of Section 478.125 of Title
25 27 of the Code of Federal Regulations.
- 26 (B) A licensee shall be in compliance with the provisions of
27 paragraph (17) of subdivision (b) if he or she maintains and makes
28 available for inspection during business hours to any peace officer,
29 authorized local law enforcement employee, or Department of
30 Justice employee designated by the Attorney General, upon the
31 presentation of proper identification, the bound book containing
32 the same information referred to in Section 478.124a and
33 subdivision (e) of Section 478.125 of Title 27 of the Code of
34 Federal Regulations and the records referred to in subdivision (a)
35 of Section 478.124 of Title 27 of the Code of Federal Regulations.
- 36 (d) Upon written request from a licensee, the licensing authority
37 may grant an exemption from compliance with paragraph (14) of
38 subdivision (b) if the licensee is unable to comply with those
39 requirements because of local ordinances, covenants, lease

1 conditions, or similar circumstances not under the control of the
2 licensee.

3 (e) (1) Except as otherwise provided in this paragraph, the
4 Department of Justice shall keep a centralized list of all persons
5 licensed pursuant to subparagraphs (A) to (E), inclusive, of
6 paragraph (1) of subdivision (a). The department may remove from
7 this list any person who knowingly or with gross negligence
8 violates this article. Upon removal of a dealer from this list,
9 notification shall be provided to local law enforcement and
10 licensing authorities in the jurisdiction where the dealer's business
11 is located.

12 (2) The department shall remove from the centralized list any
13 person whose federal firearms license has expired or has been
14 revoked.

15 (3) Information compiled from the list shall be made available,
16 upon request, for the following purposes only:

17 (A) For law enforcement purposes.

18 (B) When the information is requested by a person licensed
19 pursuant to Section 921 and following of Title 18 of the United
20 States Code for determining the validity of the license for firearm
21 shipments.

22 (C) When information is requested by a person promoting,
23 sponsoring, operating, or otherwise organizing a show or event as
24 defined in Section 478.100 of Title 27 of the Code of Federal
25 Regulations, or its successor, who possesses a valid certificate of
26 eligibility issued pursuant to Section 12071.1, if that information
27 is requested by the person to determine the eligibility of a
28 prospective participant in a gun show or event to conduct
29 transactions as a firearms dealer pursuant to subparagraph (B) of
30 paragraph (1) of subdivision (b).

31 (4) Information provided pursuant to paragraph (3) shall be
32 limited to information necessary to corroborate an individual's
33 current license status as being one of the following:

34 (A) A person licensed pursuant to subparagraphs (A) to (E),
35 inclusive, of paragraph (1) of subdivision (a).

36 (B) A person licensed pursuant to Section 921 and following
37 of Title 18 of the United States Code and who is not subject to the
38 requirement that he or she be licensed pursuant to subparagraphs
39 (A) to (E), inclusive, of paragraph (1) of subdivision (a).

1 (f) The Department of Justice may inspect dealers to ensure
2 compliance with this article. The department may assess an annual
3 fee, not to exceed one hundred fifteen dollars (\$115), to cover the
4 reasonable cost of maintaining the list described in subdivision
5 (e), including the cost of inspections. Dealers whose place of
6 business is in a jurisdiction that has adopted an inspection program
7 to ensure compliance with firearms law shall be exempt from that
8 portion of the department's fee that relates to the cost of
9 inspections. The applicant is responsible for providing evidence
10 to the department that the jurisdiction in which the business is
11 located has the inspection program.

12 (g) The Department of Justice shall maintain and make available
13 upon request information concerning the number of inspections
14 conducted and the amount of fees collected pursuant to subdivision
15 (f), a listing of exempted jurisdictions, as defined in subdivision
16 (f), the number of dealers removed from the centralized list defined
17 in subdivision (e), and the number of dealers found to have violated
18 this article with knowledge or gross negligence.

19 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
20 a licensee organized as a nonprofit public benefit or mutual benefit
21 corporation organized pursuant to Part 2 (commencing with Section
22 5110) or Part 3 (commencing with Section 7110) of Division 2 of
23 the Corporations Code, if both of the following conditions are
24 satisfied:

25 (1) The nonprofit public benefit or mutual benefit corporation
26 obtained the dealer's license solely and exclusively to assist that
27 corporation or local chapters of that corporation in conducting
28 auctions or similar events at which firearms are auctioned off to
29 fund the activities of that corporation or the local chapters of the
30 corporation.

31 (2) The firearms are not pistols, revolvers, or other firearms
32 capable of being concealed upon the person.

33 SEC. 151. Section 12076 of the Penal Code is amended to read:
34 12076. (a) (1) Before January 1, 1998, the Department of
35 Justice shall determine the method by which a dealer shall submit
36 firearm purchaser information to the department and the
37 information shall be in one of the following formats:

38 (A) Submission of the register described in Section 12077.

39 (B) Electronic or telephonic transfer of the information contained
40 in the register described in Section 12077.

1 (2) On or after January 1, 1998, electronic or telephonic transfer,
2 including voice or facsimile transmission, shall be the exclusive
3 means by which purchaser information is transmitted to the
4 department.

5 (3) On or after January 1, 2003, except as permitted by the
6 department, electronic transfer shall be the exclusive means by
7 which information is transmitted to the department. Telephonic
8 transfer shall not be permitted for information regarding sales of
9 any firearms.

10 (b) (1) Where the register is used, the purchaser of any firearm
11 shall be required to present clear evidence of his or her identity
12 and age, as defined in Section 12071, to the dealer, and the dealer
13 shall require him or her to sign his or her current legal name and
14 affix his or her residence address and date of birth to the register
15 in quadruplicate. The salesperson shall affix his or her signature
16 to the register in quadruplicate as a witness to the signature and
17 identification of the purchaser. Any person furnishing a fictitious
18 name or address or knowingly furnishing any incorrect information
19 or knowingly omitting any information required to be provided
20 for the register and any person violating any provision of this
21 section is guilty of a misdemeanor, provided, however, that any
22 person who is prohibited from obtaining a firearm pursuant to
23 Section 12021 or 12021.1 of this code, or Section 8100 or 8103
24 of the Welfare and Institutions Code, who knowingly furnishes a
25 fictitious name or address or knowingly furnishes any incorrect
26 information or knowingly omits any information required to be
27 provided for the register shall be punished by imprisonment in a
28 county jail not exceeding one year or imprisonment in the state
29 prison for a term of 8, 12, or 18 months.

30 (2) The original of the register shall be retained by the dealer
31 in consecutive order. Each book of 50 originals shall become the
32 permanent register of transactions that shall be retained for not
33 less than three years from the date of the last transaction and shall
34 be available for the inspection of any peace officer, Department
35 of Justice employee designated by the Attorney General, or agent
36 of the federal Bureau of Alcohol, Tobacco, Firearms and
37 Explosives upon the presentation of proper identification, but no
38 information shall be compiled therefrom regarding the purchasers
39 or other transferees of firearms that are not pistols, revolvers, or
40 other firearms capable of being concealed upon the person.

1 (3) Two copies of the original sheet of the register, on the date
2 of the application to purchase, shall be placed in the mail, postage
3 prepaid, and properly addressed to the Department of Justice in
4 Sacramento.

5 (4) If requested, a photocopy of the original shall be provided
6 to the purchaser by the dealer.

7 (5) If the transaction is a private party transfer conducted
8 pursuant to Section 12082, a photocopy of the original shall be
9 provided to the seller or purchaser by the dealer, upon request.
10 The dealer shall redact all of the purchaser's personal information,
11 as required pursuant to paragraph (1) of subdivision (b) and
12 paragraph (1) of subdivision (c) of Section 12077, from the seller's
13 copy, and the seller's personal information from the purchaser's
14 copy.

15 (c) (1) Where the electronic or telephonic transfer of applicant
16 information is used, the purchaser shall be required to present clear
17 evidence of his or her identity and age, as defined in Section 12071,
18 to the dealer, and the dealer shall require him or her to sign his or
19 her current legal name to the record of electronic or telephonic
20 transfer. The salesperson shall affix his or her signature to the
21 record of electronic or telephonic transfer as a witness to the
22 signature and identification of the purchaser. Any person furnishing
23 a fictitious name or address or knowingly furnishing any incorrect
24 information or knowingly omitting any information required to be
25 provided for the electronic or telephonic transfer and any person
26 violating any provision of this section is guilty of a misdemeanor,
27 provided, however, that any person who is prohibited from
28 obtaining a firearm pursuant to Section 12021 or 12021.1 of this
29 code, or Section 8100 or 8103 of the Welfare and Institutions Code,
30 who knowingly furnishes a fictitious name or address or knowingly
31 furnishes any incorrect information or knowingly omits any
32 information required to be provided for the register shall be
33 punished by imprisonment in a county jail not exceeding one year
34 or imprisonment in the state prison for a term of 8, 12, or 18
35 months.

36 (2) The record of applicant information shall be transmitted to
37 the Department of Justice in Sacramento by electronic or telephonic
38 transfer on the date of the application to purchase.

39 (3) The original of each record of electronic or telephonic
40 transfer shall be retained by the dealer in consecutive order. Each

1 original shall become the permanent record of the transaction that
2 shall be retained for not less than three years from the date of the
3 last transaction and shall be provided for the inspection of any
4 peace officer, Department of Justice employee designated by the
5 Attorney General, or agent of the federal Bureau of Alcohol,
6 Tobacco, Firearms and Explosives upon the presentation of proper
7 identification, but no information shall be compiled therefrom
8 regarding the purchasers or other transferees of firearms that are
9 not pistols, revolvers, or other firearms capable of being concealed
10 upon the person.

11 (4) If requested, a copy of the record of electronic or telephonic
12 transfer shall be provided to the purchaser by the dealer.

13 (5) If the transaction is a private party transfer conducted
14 pursuant to Section 12082, a copy shall be provided to the seller
15 or purchaser by the dealer, upon request. The dealer shall redact
16 all of the purchaser's personal information, as required pursuant
17 to paragraph (1) of subdivision (b) and paragraph (1) of subdivision
18 (c) of Section 12077, from the seller's copy, and the seller's
19 personal information from the purchaser's copy.

20 (d) (1) The department shall examine its records, as well as
21 those records that it is authorized to request from the State
22 Department of Mental Health pursuant to Section 8104 of the
23 Welfare and Institutions Code, in order to determine if the
24 purchaser is a person described in subparagraph (A) of paragraph
25 (9) of subdivision (a) of Section 12072, or is prohibited by state
26 or federal law from possessing, receiving, owning, or purchasing
27 a firearm.

28 (2) To the extent that funding is available, the Department of
29 Justice may participate in the National Instant Criminal Background
30 Check System (NICS), as described in subsection (t) of Section
31 922 of Title 18 of the United States Code, and, if that participation
32 is implemented, shall notify the dealer and the chief of the police
33 department of the city or city and county in which the sale was
34 made, or if the sale was made in a district in which there is no
35 municipal police department, the sheriff of the county in which
36 the sale was made, that the purchaser is a person prohibited from
37 acquiring a firearm under federal law.

38 (3) If the department determines that the purchaser is prohibited
39 by state or federal law from possessing, receiving, owning, or
40 purchasing a firearm or is a person described in subparagraph (A)

1 of paragraph (9) of subdivision (a) of Section 12072, it shall
2 immediately notify the dealer and the chief of the police department
3 of the city or city and county in which the sale was made, or if the
4 sale was made in a district in which there is no municipal police
5 department, the sheriff of the county in which the sale was made,
6 of that fact.

7 (4) If the department determines that the copies of the register
8 submitted to it pursuant to paragraph (3) of subdivision (b) contain
9 any blank spaces or inaccurate, illegible, or incomplete information,
10 preventing identification of the purchaser or the pistol, revolver,
11 or other firearm to be purchased, or if any fee required pursuant
12 to subdivision (e) is not submitted by the dealer in conjunction
13 with submission of copies of the register, the department may
14 notify the dealer of that fact. Upon notification by the department,
15 the dealer shall submit corrected copies of the register to the
16 department, or shall submit any fee required pursuant to subdivision
17 (e), or both, as appropriate, and, if notification by the department
18 is received by the dealer at any time prior to delivery of the firearm
19 to be purchased, the dealer shall withhold delivery until the
20 conclusion of the waiting period described in Sections 12071 and
21 12072.

22 (5) If the department determines that the information transmitted
23 to it pursuant to subdivision (c) contains inaccurate or incomplete
24 information preventing identification of the purchaser or the pistol,
25 revolver, or other firearm capable of being concealed upon the
26 person to be purchased, or if the fee required pursuant to
27 subdivision (e) is not transmitted by the dealer in conjunction with
28 transmission of the electronic or telephonic record, the department
29 may notify the dealer of that fact. Upon notification by the
30 department, the dealer shall transmit corrections to the record of
31 electronic or telephonic transfer to the department, or shall transmit
32 any fee required pursuant to subdivision (e), or both, as appropriate,
33 and if notification by the department is received by the dealer at
34 any time prior to delivery of the firearm to be purchased, the dealer
35 shall withhold delivery until the conclusion of the waiting period
36 described in Sections 12071 and 12072.

37 (e) The Department of Justice may require the dealer to charge
38 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
39 except that the fee may be increased at a rate not to exceed any
40 increase in the California Consumer Price Index as compiled and

1 reported by the Department of Industrial Relations. The fee shall
2 be no more than is necessary to fund the following:

3 (1) (A) The department for the cost of furnishing this
4 information.

5 (B) The department for the cost of meeting its obligations under
6 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
7 and Institutions Code.

8 (2) Local mental health facilities for state-mandated local costs
9 resulting from the reporting requirements imposed by Section 8103
10 of the Welfare and Institutions Code.

11 (3) The State Department of Mental Health for the costs resulting
12 from the requirements imposed by Section 8104 of the Welfare
13 and Institutions Code.

14 (4) Local mental hospitals, sanitariums, and institutions for
15 state-mandated local costs resulting from the reporting
16 requirements imposed by Section 8105 of the Welfare and
17 Institutions Code.

18 (5) Local law enforcement agencies for state-mandated local
19 costs resulting from the notification requirements set forth in
20 subdivision (a) of Section 6385 of the Family Code.

21 (6) Local law enforcement agencies for state-mandated local
22 costs resulting from the notification requirements set forth in
23 subdivision (c) of Section 8105 of the Welfare and Institutions
24 Code.

25 (7) For the actual costs associated with the electronic or
26 telephonic transfer of information pursuant to subdivision (c).

27 (8) The Department of Food and Agriculture for the costs
28 resulting from the notification provisions set forth in Section 5343.5
29 of the Food and Agricultural Code.

30 (9) The department for the costs associated with subparagraph
31 (D) of paragraph (2) of subdivision (f) of Section 12072.

32 (10) The department for the costs associated with funding
33 Department of Justice firearms-related regulatory and enforcement
34 activities related to the sale, purchase, loan, or transfer of firearms
35 pursuant to this chapter.

36 The fee established pursuant to this subdivision shall not exceed
37 the sum of the actual processing costs of the department, the
38 estimated reasonable costs of the local mental health facilities for
39 complying with the reporting requirements imposed by paragraph
40 (2), the costs of the State Department of Mental Health for

1 complying with the requirements imposed by paragraph (3), the
2 estimated reasonable costs of local mental hospitals, sanitariums,
3 and institutions for complying with the reporting requirements
4 imposed by paragraph (4), the estimated reasonable costs of local
5 law enforcement agencies for complying with the notification
6 requirements set forth in subdivision (a) of Section 6385 of the
7 Family Code, the estimated reasonable costs of local law
8 enforcement agencies for complying with the notification
9 requirements set forth in subdivision (c) of Section 8105 of the
10 Welfare and Institutions Code imposed by paragraph (6) of this
11 subdivision, the estimated reasonable costs of the Department of
12 Food and Agriculture for the costs resulting from the notification
13 provisions set forth in Section 5343.5 of the Food and Agricultural
14 Code, the estimated reasonable costs of the department for the
15 costs associated with subparagraph (D) of paragraph (2) of
16 subdivision (f) of Section 12072, and the estimated reasonable
17 costs of department firearms-related regulatory and enforcement
18 activities related to the sale, purchase, loan, or transfer of firearms
19 pursuant to this chapter.

20 (f) (1) The Department of Justice may charge a fee sufficient
21 to reimburse it for each of the following but not to exceed fourteen
22 dollars (\$14), except that the fee may be increased at a rate not to
23 exceed any increase in the California Consumer Price Index as
24 compiled and reported by the Department of Industrial Relations:

25 (A) For the actual costs associated with the preparation, sale,
26 processing, and filing of forms or reports required or utilized
27 pursuant to Section 12078.

28 (B) For the actual processing costs associated with the
29 submission of a Dealers' Record of Sale to the department.

30 (C) For the actual costs associated with the preparation, sale,
31 processing, and filing of reports utilized pursuant to subdivision
32 (l) of Section 12078 or paragraph (18) of subdivision (b) of Section
33 12071, or clause (i) of subparagraph (A) of paragraph (2) of
34 subdivision (f) of Section 12072, or paragraph (3) of subdivision
35 (f) of Section 12072.

36 (D) For the actual costs associated with the electronic or
37 telephonic transfer of information pursuant to subdivision (c).

38 (2) If the department charges a fee pursuant to subparagraph
39 (B) of paragraph (1) of this subdivision, it shall be charged in the

1 same amount to all categories of transaction that are within that
2 subparagraph.

3 (3) Any costs incurred by the Department of Justice to
4 implement this subdivision shall be reimbursed from fees collected
5 and charged pursuant to this subdivision. No fees shall be charged
6 to the dealer pursuant to subdivision (e) for implementing this
7 subdivision.

8 (g) All moneys received by the department pursuant to this
9 section shall be deposited in the Dealers' Record of Sale Special
10 Account of the General Fund, which is hereby created, to be
11 available, upon appropriation by the Legislature, for expenditure
12 by the department to offset the costs incurred pursuant to this
13 section, paragraph (1) and subparagraph (D) of paragraph (2) of
14 subdivision (f) of Section 12072, Sections 12083 and 12099,
15 subdivision (c) of Section 12131, Sections 12234, 12289, and
16 12289.5, and subdivisions (f) and (g) of Section 12305.

17 (h) Where the electronic or telephonic transfer of applicant
18 information is used, the department shall establish a system to be
19 used for the submission of the fees described in subdivision (e) to
20 the department.

21 (i) (1) Only one fee shall be charged pursuant to this section
22 for a single transaction on the same date for the sale of any number
23 of firearms that are not pistols, revolvers, or other firearms capable
24 of being concealed upon the person or for the taking of possession
25 of those firearms.

26 (2) In a single transaction on the same date for the delivery of
27 any number of firearms that are pistols, revolvers, or other firearms
28 capable of being concealed upon the person, the department shall
29 charge a reduced fee pursuant to this section for the second and
30 subsequent firearms that are part of that transaction.

31 (j) Only one fee shall be charged pursuant to this section for a
32 single transaction on the same date for taking title or possession
33 of any number of firearms pursuant to paragraph (18) of
34 subdivision (b) of Section 12071 or subdivision (c) or (i) of Section
35 12078.

36 (k) Whenever the Department of Justice acts pursuant to this
37 section as it pertains to firearms other than pistols, revolvers, or
38 other firearms capable of being concealed upon the person, the
39 department's acts or omissions shall be deemed to be discretionary
40 within the meaning of the California Tort Claims Act pursuant to

1 Division 3.6 (commencing with Section 810) of Title 1 of the
2 Government Code.

3 (l) As used in this section, the following definitions apply:

4 (1) "Purchaser" means the purchaser or transferee of a firearm
5 or a person being loaned a firearm.

6 (2) "Purchase" means the purchase, loan, or transfer of a firearm.

7 (3) "Sale" means the sale, loan, or transfer of a firearm.

8 (4) "Seller" means, if the transaction is being conducted pursuant
9 to Section 12082, the person selling, loaning, or transferring the
10 firearm.

11 SEC. 152. Section 13777.2 of the Penal Code is amended to
12 read:

13 13777.2. (a) The Commission on the Status of Women shall
14 convene an advisory committee consisting of one person appointed
15 by the Attorney General and one person appointed by each of the
16 organizations named in subdivision (b) of Section 13776 that
17 chooses to appoint a member, and any other subject matter experts
18 the commission may appoint. The advisory committee shall elect
19 its chair and any other officers of its choice.

20 (b) The advisory committee shall make two reports, the first by
21 December 31, 2007, and the second by December 31, 2011, to the
22 Committees on Health, Judiciary, and Public Safety of the Senate
23 and Assembly, to the Attorney General, the Commission on Peace
24 Officer Standards and Training, and the Commission on the Status
25 of Women. The reports shall evaluate the implementation of
26 Chapter 899 of the Statutes of 2001 and any subsequent
27 amendments made to this title and the effectiveness of the plan
28 developed by the Attorney General pursuant to paragraph (4) of
29 subdivision (a) of Section 13777. The reports shall also include
30 recommendations concerning whether the Legislature should
31 extend or repeal the sunset dates in Section 13779,
32 recommendations regarding any other legislation, and
33 recommendations for any other actions by the Attorney General,
34 Commission on Peace Officer Standards and Training, or the
35 Commission on the Status of Women.

36 (c) The Commission on the Status of Women shall transmit the
37 reports of the advisory committee to the appropriate committees
38 of the Legislature, including, but not limited to, the Committees
39 on Health, Judiciary, and Public Safety in the Senate and Assembly,
40 and make the reports available to the public, including by posting

1 them on the Commission on the Status of Women’s Internet Web
2 site. To avoid production and distribution costs, the Commission
3 on the Status of Women may submit the reports electronically or
4 as part of any other report that the Commission on the Status of
5 Women submits to the Legislature.

6 (d) The Commission on Peace Officer Standards and Training
7 shall make the telecourse that it produced in 2002 pursuant to
8 subdivision (a) of Section 13778 available to the advisory
9 committee. However, before providing the telecourse to the
10 advisory committee or otherwise making it public, the commission
11 shall remove the name and face of any person who appears in the
12 telecourse as originally produced who informs the commission in
13 writing that he or she has a reasonable apprehension that making
14 the telecourse public without the removal will endanger his or her
15 life or physical safety.

16 (e) Nothing in this section requires any state agency to pay for
17 compensation, travel, or other expenses of any advisory committee
18 member.

19 SEC. 153. Section 3140 of the Probate Code is amended to
20 read:

21 3140. (a) A conservator served pursuant to this article shall,
22 and the Director of Mental Health or the Director of Developmental
23 Services given notice pursuant to Section 1461 may, appear at the
24 hearing and represent a spouse alleged to lack legal capacity for
25 the proposed transaction.

26 (b) The court may, in its discretion, appoint an investigator to
27 review the proposed transaction and report to the court regarding
28 its advisability.

29 (c) If the court determines that a spouse alleged to lack legal
30 capacity has not competently retained independent counsel, the
31 court may in its discretion appoint the public guardian, public
32 administrator, or a guardian ad litem to represent the interests of
33 the spouse.

34 (d) (1) If a spouse alleged to lack legal capacity is unable to
35 retain legal counsel, upon request of the spouse, the court shall
36 appoint the public defender or private counsel under Section 1471
37 to represent the spouse and, if that appointment is made, Section
38 1472 applies.

39 (2) If the petition proposes a transfer of substantial assets to the
40 petitioner from the other spouse and the court determines that the

1 spouse has not competently retained independent counsel for the
2 proceeding, the court may, in its discretion, appoint counsel for
3 the other spouse if the court determines that appointment would
4 be helpful to resolve the matter or necessary to protect the interests
5 of the other spouse.

6 (e) Except as provided in paragraph (1) of subdivision (d), the
7 court may fix a reasonable fee, to be paid out of the proceeds of
8 the transaction or otherwise as the court may direct, for all services
9 rendered by privately engaged counsel, the public guardian, public
10 administrator, or guardian ad litem, and by counsel for those
11 persons.

12 SEC. 154. Section 7103 of the Public Contract Code is amended
13 to read:

14 7103. (a) (1) Every original contractor to who is awarded a
15 contract by a state entity, as defined in subdivision (d), involving
16 an expenditure in excess of twenty-five thousand dollars (\$25,000)
17 for any public work shall, before entering upon the performance
18 of the work, file a payment bond with and approved by the officer
19 or state entity by who the contract was awarded. The bond shall
20 be in a sum not less than 100 percent of the total amount payable
21 by the terms of the contract.

22 (2) The state entity shall state in its call for bids for any contract
23 that a payment bond is required in the case of such an expenditure.

24 (b) A payment bond filed and approved in accordance with this
25 section shall be sufficient to enter upon the performance of work
26 under a duly authorized contract that supplements the contract for
27 which the payment bond was filed if the requirement of a new
28 bond is waived by the state entity.

29 (c) For purposes of this section, providers of architectural,
30 engineering, and land surveying services pursuant to a contract
31 with a state entity for a public work shall not be deemed an original
32 contractor and shall not be required to post or file the payment
33 bond required in subdivisions (a) and (b).

34 (d) For purposes of this section, "state entity" means every state
35 office, department, division, bureau, board, or commission, but
36 does not include the Legislature, the courts, any agency in the
37 judicial branch of government, or the University of California. All
38 other public entities shall be governed by Section 3247 of the Civil
39 Code.

1 (e) For purposes of this section, “public work” includes the
2 erection, construction, alteration, repair, or improvement of any
3 state structure, building, road, or other state improvement of any
4 kind.

5 SEC. 155. Section 4291 of the Public Resources Code is
6 amended to read:

7 4291. (a) A person who owns, leases, controls, operates, or
8 maintains a building or structure in, upon, or adjoining a
9 mountainous area, forest-covered lands, brush-covered lands,
10 grass-covered lands, or land that is covered with flammable
11 material, shall at all times do all of the following:

12 (1) Maintain defensible space no greater than 100 feet from
13 each side of the structure, but not beyond the property line unless
14 allowed by state law, local ordinance, or regulation and as provided
15 in paragraph (2). The amount of fuel modification necessary shall
16 take into account the flammability of the structure as affected by
17 building material, building standards, location, and type of
18 vegetation. Fuels shall be maintained in a condition so that a
19 wildfire burning under average weather conditions would be
20 unlikely to ignite the structure. This paragraph does not apply to
21 single specimens of trees or other vegetation that are well-pruned
22 and maintained so as to effectively manage fuels and not form a
23 means of rapidly transmitting fire from other nearby vegetation to
24 a structure or from a structure to other nearby vegetation. The
25 intensity of fuels management may vary within the 100-foot
26 perimeter of the structure, the most intense being within the first
27 30 feet around the structure. Consistent with fuels management
28 objectives, steps should be taken to minimize erosion.

29 (2) A greater distance than that required under paragraph (1)
30 may be required by state law, local ordinance, rule, or regulation.
31 Clearance beyond the property line may only be required if the
32 state law, local ordinance, rule, or regulation includes findings that
33 such a clearing is necessary to significantly reduce the risk of
34 transmission of flame or heat sufficient to ignite the structure, and
35 there is no other feasible mitigation measure possible to reduce
36 the risk of ignition or spread of wildfire to the structure. Clearance
37 on adjacent property shall only be conducted following written
38 consent by the adjacent landowner.

39 (3) An insurance company that insures an occupied dwelling
40 or occupied structure may require a greater distance than that

1 required under paragraph (1) if a fire expert, designated by the
2 director, provides findings that such a clearing is necessary to
3 significantly reduce the risk of transmission of flame or heat
4 sufficient to ignite the structure, and there is no other feasible
5 mitigation measure possible to reduce the risk of ignition or spread
6 of wildfire to the structure. The greater distance may not be beyond
7 the property line unless allowed by state law, local ordinance, rule,
8 or regulation.

9 (4) Remove that portion of any tree that extends within 10 feet
10 of the outlet of a chimney or stovepipe.

11 (5) Maintain any tree, shrub, or other plant adjacent to or
12 overhanging a building free of dead or dying wood.

13 (6) Maintain the roof of a structure free of leaves, needles, or
14 other vegetative materials.

15 (7) Prior to constructing a new building or structure or rebuilding
16 a building or structure damaged by a fire in an area subject to this
17 section, the construction or rebuilding of which requires a building
18 permit, the owner shall obtain a certification from the local building
19 official that the dwelling or structure, as proposed to be built,
20 complies with all applicable state and local building standards,
21 including those described in subdivision (b) of Section 51189 of
22 the Government Code, and shall provide a copy of the certification,
23 upon request, to the insurer providing course of construction
24 insurance coverage for the building or structure. Upon completion
25 of the construction or rebuilding, the owner shall obtain from the
26 local building official a copy of the final inspection report that
27 demonstrates that the dwelling or structure was constructed in
28 compliance with all applicable state and local building standards,
29 including those described in subdivision (b) of Section 51189 of
30 the Government Code, and shall provide a copy of the report, upon
31 request, to the property insurance carrier that insures the dwelling
32 or structure.

33 (b) A person is not required under this section to manage fuels
34 on land if that person does not have the legal right to manage fuels,
35 nor is a person required to enter upon or to alter property that is
36 owned by any other person without the consent of the owner of
37 the property.

38 (c) (1) Except as provided in Section 18930 of the Health and
39 Safety Code, the director may adopt regulations exempting a
40 structure with an exterior constructed entirely of nonflammable

1 materials, or, conditioned upon the contents and composition of
2 the structure, the director may vary the requirements respecting
3 the removing or clearing away of flammable vegetation or other
4 combustible growth with respect to the area surrounding those
5 structures.

6 (2) An exemption or variance under paragraph (1) shall not
7 apply unless and until the occupant of the structure, or if there is
8 not an occupant, the owner of the structure, files with the
9 department, in a form as the director shall prescribe, a written
10 consent to the inspection of the interior and contents of the structure
11 to ascertain whether this section and the regulations adopted under
12 this section are complied with at all times.

13 (d) The director may authorize the removal of vegetation that
14 is not consistent with the standards of this section. The director
15 may prescribe a procedure for the removal of that vegetation and
16 make the expense a lien upon the building, structure, or grounds,
17 in the same manner that is applicable to a legislative body under
18 Section 51186 of the Government Code.

19 (e) The Department of Forestry and Fire Protection shall
20 develop, periodically update, and post on its Internet Web site a
21 guidance document on fuels management pursuant to this chapter.
22 Guidance shall include, but not be limited to, regionally appropriate
23 vegetation management suggestions that preserve and restore native
24 species, minimize erosion, minimize water consumption, and
25 permit trees near homes for shade, aesthetics, and habitat; and
26 suggestions to minimize or eliminate the risk of flammability of
27 nonvegetative sources of combustion such as woodpiles, propane
28 tanks, wood decks, and outdoor lawn furniture.

29 (f) As used in this section, “person” means a private individual,
30 organization, partnership, limited liability company, or corporation.

31 SEC. 156. Section 14514.7 of the Public Resources Code is
32 amended to read:

33 14514.7. “Nonprofit convenience zone recycler” means a
34 recycling center that meets the criteria described in subdivision
35 (a) or (b):

36 (a) The recycling center is all of the following:

37 (1) Operated by an organization established under Section 501(c)
38 or 501(d) of Title 26 of the United States Code.

39 (2) Certified by the department pursuant to Section 14538.

1 (3) Located within a convenience zone, but is not necessarily a
2 supermarket site.

3 (b) The recycling center is all of the following:

4 (1) Operated by an organization established under Section 501(c)
5 or 501(d) of Title 26 of the United States Code and has operated
6 in the same location for a period of not less than five years.

7 (2) Certified by the department pursuant to Section 14538.

8 (3) Located within one mile of a supermarket that is in a
9 convenience zone that is exempt from the requirements of
10 subdivision (a) of Section 14571.

11 SEC. 157. Section 14581 of the Public Resources Code is
12 amended to read:

13 14581. (a) Subject to the availability of funds, and pursuant
14 to subdivision (c), the department shall expend the moneys set
15 aside in the fund, pursuant to subdivision (c) of Section 14580, for
16 the purposes of this section:

17 (1) (A) On and after July 1, 2005, to June 30, 2006, inclusive,
18 up to thirty-one million dollars (\$31,000,000) may be expended
19 for that fiscal year for the payment of handling fees pursuant to
20 Section 14585.

21 (B) On and after July 1, 2006, to June 30, 2007, inclusive, up
22 to thirty-three million dollars (\$33,000,000) may be expended for
23 that fiscal year for the payment of handling fees pursuant to Section
24 14585.

25 (C) On and after July 1, 2007, to June 30, 2008, inclusive, up
26 to thirty-five million dollars (\$35,000,000) may be expended for
27 that fiscal year for the payment of handling fees pursuant to Section
28 14585.

29 (D) For each fiscal year commencing July 1, 2008, the
30 department may expend the amount necessary to make the required
31 handling fee payment pursuant to Section 14585.

32 (2) Fifteen million dollars (\$15,000,000) shall be expended
33 annually for payments for curbside programs and neighborhood
34 dropoff programs pursuant to Section 14549.6.

35 (3) (A) Fifteen million dollars (\$15,000,000), plus the
36 proportional share of the cost-of-living adjustment, as provided in
37 subdivision (b), shall be expended annually in the form of grants
38 for beverage container litter reduction programs and recycling
39 programs issued to either of the following:

1 (i) Certified community conservation corps that were in
 2 existence on September 30, 1999, or that are formed subsequent
 3 to that date, that are designated by a city or a city and county to
 4 perform litter abatement, recycling, and related activities, if the
 5 city or the city and county has a population, as determined by the
 6 most recent census, of more than 250,000 persons.

7 (ii) Community conservation corps that are designated by a
 8 county to perform litter abatement, recycling, and related activities,
 9 and are certified by the California Conservation Corps as having
 10 operated for a minimum of two years and as meeting all other
 11 criteria of Section 14507.5.

12 (B) Any grants provided pursuant to this paragraph shall not
 13 comprise more than 75 percent of the annual budget of a
 14 community conservation corps.

15 (4) (A) On or after July 1, 2007, until June 30, 2008, for only
 16 that fiscal year, up to twenty million dollars (\$20,000,000) may
 17 be expended in the form of competitive grants issued to community
 18 conservation corps that are designated by a city or county, and that
 19 meet both of the following criteria:

20 (i) Are certified by the California Conservation Corps as having
 21 operated for a minimum of two years.

22 (ii) Meet all other requirements under Section 14507.5.

23 (B) The department shall prepare and adopt criteria and
 24 procedures for evaluating grant applications on a competitive basis.
 25 Eligible activities for the use of these funds shall include
 26 developing new projects, or enhancing or assisting existing
 27 projects, to increase beverage container recycling and increasing
 28 the quality of recycled material at the following locations:

29 (i) Multifamily dwellings.

30 (ii) Schools.

31 (iii) Commercial, state, and local government buildings.

32 (iv) Bars, restaurants, hotels, and lodging establishments, and
 33 entertainment venues.

34 (v) Parks and beaches.

35 (C) Any grants provided pursuant to this paragraph shall not
 36 comprise more than 75 percent of the annual budget of a
 37 community conservation corps.

38 (D) Any grants provided pursuant to this paragraph shall support
 39 one-time capital improvement projects and shall not be used to
 40 support ongoing staff activities.

1 (E) Any grant funds appropriated pursuant to this paragraph
2 that have not been awarded to a grantee prior to the end of the
3 2007–08 fiscal year shall revert to the fund.

4 (5) (A) Ten million five hundred thousand dollars (\$10,500,000)
5 may be expended annually for payments of five thousand dollars
6 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
7 to counties for beverage container recycling and litter cleanup
8 activities, or the department may calculate the payments to counties
9 and cities on a per capita basis, and may pay whichever amount
10 is greater, for those activities.

11 (B) Eligible activities for the use of these funds may include,
12 but are not necessarily limited to, support for new or existing
13 curbside recycling programs, neighborhood dropoff recycling
14 programs, public education-promoting beverage container
15 recycling, litter prevention, and cleanup, cooperative regional
16 efforts among two or more cities or counties, or both, or other
17 beverage container recycling programs.

18 (C) These funds may not be used for activities unrelated to
19 beverage container recycling or litter reduction.

20 (D) To receive these funds, a city, county, or city and county
21 shall fill out and return a funding request form to the Department
22 of Conservation. The form shall specify the beverage container
23 recycling or litter reduction activities for which the funds will be
24 used.

25 (E) The Department of Conservation shall annually prepare and
26 distribute a funding request form to each city, county, or city and
27 county. The form shall specify the amount of beverage container
28 recycling and litter cleanup funds for which the jurisdiction is
29 eligible. The form shall not exceed one double-sided page in length,
30 and may be submitted electronically. If a city, county, or city and
31 county does not return the funding request form within 90 days of
32 receipt of the form from the department, the city, county, or city
33 and county is not eligible to receive the funds for that funding
34 cycle.

35 (F) For the purposes of this paragraph, per capita population
36 shall be based on the population of the incorporated area of a city
37 or city and county and the unincorporated area of a county. The
38 department may withhold payment to any city, county, or city and
39 county that has prohibited the siting of a supermarket site, caused
40 a supermarket site to close its business, or adopted a land use policy

1 that restricts or prohibits the siting of a supermarket site within its
2 jurisdiction.

3 (6) One million five hundred thousand dollars (\$1,500,000) may
4 be expended annually in the form of grants for beverage container
5 recycling and litter reduction programs.

6 (7) (A) The department shall expend the amount necessary to
7 pay the processing payment established pursuant to Section 14575.
8 The department shall establish separate processing fee accounts
9 in the fund for each beverage container material type for which a
10 processing payment and processing fee are calculated pursuant to
11 Section 14575, or for which a processing payment is calculated
12 pursuant to Section 14575 and a voluntary artificial scrap value is
13 calculated pursuant to Section 14575.1, into which account shall
14 be deposited both of the following:

15 (i) All amounts paid as processing fees for each beverage
16 container material type pursuant to Section 14575.

17 (ii) Funds equal to the difference between the amount in clause
18 (i) and the amount of the processing payments established in
19 subdivision (b) of Section 14575, and adjusted pursuant to
20 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
21 14575, to reduce the processing fee to the level provided in
22 subdivision (f) of Section 14575, or to reflect the agreement by a
23 willing purchaser to pay a voluntary artificial scrap value pursuant
24 to Section 14575.1.

25 (B) Notwithstanding Section 13340 of the Government Code,
26 the moneys in each processing fee account are hereby continuously
27 appropriated to the department for expenditure without regard to
28 fiscal years, for purposes of making processing payments pursuant
29 to Section 14575.

30 (8) Up to five million dollars (\$5,000,000) may be annually
31 expended by the department for the purposes of undertaking a
32 statewide public education and information campaign aimed at
33 promoting increased recycling of beverage containers.

34 (9) Until January 1, 2008, the department may expend up to
35 five million dollars (\$5,000,000) for the purposes of undertaking
36 a statewide public education and information campaign aimed at
37 promoting increased recycling of beverage containers that meets
38 both of the following requirements:

39 (A) The public education and information campaign is
40 multimedia and includes print, radio, and television.

1 (B) The public education and information campaign is
2 multilingual.

3 (10) Up to fifteen million dollars (\$15,000,000) may be
4 expended annually by the department for quality incentive
5 payments for empty beverage containers pursuant to Section
6 14549.1.

7 (11) Up to twenty million dollars (\$20,000,000) may be
8 expended annually by the department, until January 1, 2012, to
9 issue grants for recycling market development and
10 expansion-related activities aimed at increasing the recycling of
11 beverage containers, including, but not limited to, the following:

12 (A) Research and development of collecting, sorting, processing,
13 cleaning, or otherwise upgrading the market value of recycled
14 beverage containers.

15 (B) Identification, development, and expansion of markets for
16 recycled beverage containers.

17 (C) Research and development for products manufactured using
18 recycled beverage containers.

19 (D) Research and development to provide high-quality materials
20 that are substantially free of contamination.

21 (E) Payments to California manufacturers who recycle beverage
22 containers that are marked by resin type identification code “3,”
23 “4,” “5,” “6,” or “7,” pursuant to Section 18015.

24 (12) Up to ten million dollars (\$10,000,000) may be transferred
25 on a one-time basis by the department to the Recycling
26 Infrastructure Loan Guarantee Account, for expenditure pursuant
27 to Section 14582.

28 (13) Up to ten million dollars (\$10,000,000) may be expended
29 annually by the department for the payment of recycling incentive
30 payments pursuant to Section 14549.7 until payments for eligible
31 beverage containers redeemed or collected for recycling on or
32 before December 31, 2009, have been paid.

33 (14) Up to five million dollars (\$5,000,000) may be expended
34 annually by the department for market development payments for
35 empty plastic beverage containers pursuant to Section 14549.2,
36 until January 1, 2012.

37 (15) Up to five million dollars (\$5,000,000) may be expended,
38 by the department, on a one-time basis beginning on January 1,
39 2007, in coordination with the Department of Parks and Recreation
40 for the purposes of installing source separated beverage container

1 recycling receptacles at each of the state parks, starting with those
 2 parks that have the highest day use.

3 (16) Up to five million dollars (\$5,000,000) may be expended,
 4 from January 1, 2007, to January 1, 2008, to provide grants to local
 5 governments or nonprofit agencies to place multifamily housing
 6 source separated beverage container recycling receptacles in
 7 low-income communities.

8 (17) (A) Up to fifteen million dollars (\$15,000,000) may be
 9 expended from January 1, 2008, to January 1, 2009, to provide
 10 grants to place source separated beverage container recycling
 11 receptacles in multifamily housing.

12 (B) Notwithstanding subdivision (b) of Section 14580, the
 13 amount of one hundred ninety-eight thousand dollars (\$198,000)
 14 may be expended by the department from the fund, on a one-time
 15 basis, for the administrative costs of implementing the grant
 16 program established by subparagraph (A).

17 (18) (A) Up to twenty million dollars (\$20,000,000) may be
 18 expended from July 1, 2009, to January 1, 2012, inclusive, for
 19 either of the following:

20 (i) Grants for beverage container recycling and litter reduction
 21 programs that emphasize the greatest and most effective collection
 22 of beverage containers per dollar spent to ensure the program's
 23 performance and accountability.

24 (ii) Focused, regional community beverage container recycling
 25 and litter reduction programs that enable the department to more
 26 effectively organize the amount and type of resources needed for
 27 regional and statewide efforts to increase recycling.

28 (B) The department shall require, as a condition of receiving
 29 grant funds pursuant to subparagraph (A), each grant recipient to
 30 submit a final report including, but not limited to, the grant
 31 recipient's reported volumes of beverage containers recycled,
 32 where applicable.

33 (C) On or before July 1, 2014, the department shall publish an
 34 evaluation of all grants made pursuant to subparagraph (A). At a
 35 minimum, the evaluation shall summarize each final report
 36 submitted by each grantee pursuant to subparagraph (B) and assess
 37 whether the grantee adequately met the scope and objectives
 38 outlined in the grant agreement.

39 (b) The fifteen million dollars (\$15,000,000) that is set aside
 40 pursuant to paragraph (3) of subdivision (a) is a base amount that

1 the department shall adjust annually to reflect any increases or
2 decreases in the cost of living, as measured by the Department of
3 Labor, or a successor agency, of the federal government.

4 (c) (1) The department shall review all funds on a quarterly
5 basis to ensure that there are adequate funds to make the payments
6 specified in this section and the processing fee reductions required
7 pursuant to Section 14575.

8 (2) If the department determines, pursuant to a review made
9 pursuant to paragraph (1), that there may be inadequate funds to
10 pay the payments required by this section and the processing fee
11 reductions required pursuant to Section 14575, the department
12 shall immediately notify the appropriate policy and fiscal
13 committees of the Legislature regarding the inadequacy.

14 (3) On or before 180 days after the notice is sent pursuant to
15 paragraph (2), the department may reduce or eliminate
16 expenditures, or both, from the funds as necessary, according to
17 the procedure set forth in subdivision (d).

18 (d) If the department determines that there are insufficient funds
19 to make the payments specified pursuant to this section and Section
20 14575, the department shall reduce all payments proportionally.

21 (e) Prior to making an expenditure pursuant to paragraph (7) of
22 subdivision (a), the department shall convene an advisory
23 committee consisting of representatives of the beverage industry,
24 beverage container manufacturers, environmental organizations,
25 the recycling industry, nonprofit organizations, and retailers to
26 advise the department on the most cost-effective and efficient
27 method of the expenditure of the funds for that education and
28 information campaign.

29 (f) After setting aside money for the expenditures required
30 pursuant to subdivisions (a) and (b) and Section 14580, the
31 department may, on and after January 1, 2007, but not after July
32 1, 2007, expend remaining moneys in the fund to pay a refund
33 value in an amount greater than the refund value established
34 pursuant to subdivision (b) of Section 14560.

35 SEC. 158. Section 29735 of the Public Resources Code is
36 amended to read:

37 29735. There is hereby created the Delta Protection
38 Commission consisting of 23 members as follows:

39 (a) One member of the board of supervisors, or his or her
40 designee, of each of the five counties within the delta whose

1 supervisorial district is within the primary zone shall be appointed
2 by the board of supervisors of the county.

3 (b) (1) Three elected city council members shall be selected
4 and appointed by city selection committees, from regional and
5 area councils of government, one in each of the following areas:

6 (A) One from the north delta, consisting of the Counties of
7 Sacramento and Yolo.

8 (B) One from the south delta, consisting of the County of San
9 Joaquin.

10 (C) One from the west delta, consisting of the Counties of Contra
11 Costa and Solano.

12 (2) A city council member may select a designee for purposes
13 of paragraph (1).

14 (c) (1) One member each from the board of directors of five
15 different reclamation districts that are located within the primary
16 zone who are residents of the delta, and who are elected by the
17 trustees of reclamation districts within the following areas:

18 (A) Two members from the area of the North Delta Water
19 Agency as described in Section 9.1 of the North Delta Water
20 Agency Act (Chapter 283 of the Statutes of 1973), provided that
21 at least one member is also a member of the Delta Citizens
22 Municipal Advisory Council.

23 (B) One member from the west delta consisting of the area of
24 Contra Costa County within the delta.

25 (C) One member from the area of the Central Delta Water
26 Agency as described in Section 9.1 of the Central Delta Water
27 Agency Act (Chapter 1133 of the Statutes of 1973).

28 (D) One member from the area of the South Delta Water Agency
29 as described in Section 9.1 of the South Delta Water Agency Act
30 (Chapter 1089 of the Statutes of 1973).

31 (2) Each reclamation district may nominate one director to be
32 a member. The member from an area shall be selected from among
33 the nominees by a majority vote of the reclamation districts in that
34 area. The member may select a designee for this purpose. For
35 purposes of this section, each reclamation district shall have one
36 vote. The north delta area shall conduct separate votes to select
37 each of its two members.

38 (d) The Director of Parks and Recreation, or the director's sole
39 designee.

1 (e) The Director of Fish and Game, or the director's sole
2 designee.

3 (f) The Secretary of Food and Agriculture, or the secretary's
4 sole designee.

5 (g) The executive officer of the State Lands Commission, or
6 the executive officer's sole designee.

7 (h) The Director of Boating and Waterways, or the director's
8 sole designee.

9 (i) The Director of Water Resources, or the director's sole
10 designee.

11 (j) The public member of the California Bay-Delta Authority
12 who represents the delta region or his or her designee.

13 (k) (1) The Governor shall appoint three members and three
14 alternates from the general public who are delta residents or delta
15 landowners, as follows:

16 (A) One member and one alternate shall represent the interests
17 of production agriculture with a background in promoting the
18 agricultural viability of delta farming.

19 (B) One member and one alternate shall represent the interests
20 of conservation of wildlife and habitat resources of the delta region
21 and ecosystem.

22 (C) One member and one alternate shall represent the interests
23 of outdoor recreational opportunities, including, but not limited
24 to, hunting and fishing.

25 (2) An alternate may serve in the absence of a member.

26 SEC. 159. Section 41825 of the Public Resources Code, as
27 added by Section 13 of Chapter 343 of the Statutes of 2008, is
28 amended to read:

29 41825. (a) Using the information in the report submitted to
30 the board by the jurisdiction pursuant to Section 41821 and any
31 other relevant information, the board shall make a finding whether
32 each jurisdiction was in compliance with Section 41780 for
33 calendar year 2006 and shall review a jurisdiction's compliance
34 with Section 41780 in accordance with the following schedule:

35 (1) If the board makes a finding that the jurisdiction was in
36 compliance with Section 41780 for calendar year 2006, the board
37 shall review, commencing January 1, 2012, and at least once every
38 four years thereafter, whether the jurisdiction has implemented its
39 source reduction and recycling element and household hazardous
40 waste element.

1 (2) If the board makes a finding that the jurisdiction made a
2 good faith effort to implement its source reduction and recycling
3 element and household hazardous waste element, the board shall
4 review, commencing January 1, 2010, and at least once every two
5 years thereafter, whether the jurisdiction has implemented its
6 source reduction and recycling element and household hazardous
7 waste element.

8 (3) If the board makes a finding that the jurisdiction was not in
9 compliance with Section 41780 for calendar year 2006 or for any
10 subsequent calendar year, the board shall review, commencing
11 January 1, 2010, and at least once every two years thereafter,
12 whether the jurisdiction has implemented its source reduction and
13 recycling element and household hazardous waste element.

14 (4) If, after determining that a jurisdiction is subject to paragraph
15 (2), or, if, after determining that a jurisdiction is not in compliance
16 with Section 41780 and is subject to paragraph (3), the board
17 subsequently determines that the jurisdiction has come into
18 compliance with Section 41780, the board shall review, at least
19 once every four years, whether the jurisdiction has implemented
20 its source reduction and recycling element and household hazardous
21 waste element in the same manner as a jurisdiction that is subject
22 to paragraph (1).

23 (5) If, after determining that a jurisdiction is in compliance with
24 Section 41780 and is subject to paragraph (1), the board
25 subsequently determines that the jurisdiction is not in compliance
26 with Section 41780, the board shall review, at least once every
27 two years, whether the jurisdiction has implemented its source
28 reduction and recycling element and household hazardous waste
29 element in the same manner as a jurisdiction that is subject to
30 paragraph (2) or (3).

31 (b) In addition to the requirements of subdivision (a), the board
32 may review whether a jurisdiction is in compliance with Section
33 41780 in accordance with the requirements of this section at any
34 time that the board receives information that indicates the
35 jurisdiction may not be making a good faith effort to implement
36 its source reduction and recycling element and household hazardous
37 waste element.

38 (c) (1) Before issuing a compliance order pursuant to
39 subdivision (d), the board shall confer with the jurisdiction
40 regarding conditions relating to the proposed order of compliance,

1 with a first meeting occurring not less than 60 days before issuing
2 a notice of intent to issue an order of compliance.

3 (2) The board shall issue a notice of intent to issue an order of
4 compliance not less than 30 days before the board holds a hearing
5 to issue the notice of compliance. The notice of intent shall specify
6 all of the following:

7 (A) The proposed basis for issuing an order of compliance.

8 (B) The proposed actions the board recommends are necessary
9 for the jurisdiction to complete to implement its source reduction
10 and recycling element or household hazardous waste element.

11 (C) The proposed recommendations to the board.

12 (3) The board shall consider any information provided pursuant
13 to subdivision (c) of Section 41821 if the proposed issuance of an
14 order of compliance involves changes to a jurisdiction's calculation
15 of annual disposal.

16 (d) (1) If, after holding a public hearing, which, to the extent
17 possible, shall be held in the local or regional agency's jurisdiction,
18 the board finds that a jurisdiction has failed to make a good faith
19 effort to implement its source reduction and recycling element or
20 its household hazardous waste element, the board shall issue an
21 order of compliance with a specific schedule for achieving
22 compliance.

23 (2) The compliance order shall include those conditions that the
24 board determines to be necessary for the jurisdiction to implement
25 its diversion programs.

26 (3) In addition to considering the good faith efforts of a
27 jurisdiction, as specified in subdivision (e), to implement a
28 diversion program, the board shall consider both of the following
29 factors in determining whether or not to issue a compliance order:

30 (A) Whether an exceptional growth rate may have affected
31 compliance.

32 (B) Other information that the jurisdiction may provide that
33 indicates the effectiveness of the jurisdiction's programs, such as
34 disposal characterization studies or other jurisdiction specific
35 information.

36 (e) For purposes of making a determination pursuant to this
37 section whether a jurisdiction has failed to make a good faith effort
38 to implement its source reduction and recycling element or its
39 household hazardous waste element, the board shall consider all
40 of the following criteria:

1 (1) For the purposes of this section, “good faith effort” means
2 all reasonable and feasible efforts by a jurisdiction to implement
3 those programs or activities identified in its source reduction and
4 recycling element or household hazardous waste element, or
5 alternative programs or activities that achieve the same or similar
6 results.

7 (2) For purposes of this section, “good faith effort” may also
8 include the evaluation by a jurisdiction of improved technology
9 for the handling and management of solid waste that would reduce
10 costs, improve efficiency in the collection, processing, or marketing
11 of recyclable materials or yard waste, and enhance the ability of
12 the jurisdiction to adequately address all sources of significant
13 disposal, the submission by the jurisdiction of a compliance
14 schedule, and the undertaking of all other reasonable and feasible
15 efforts to implement the programs identified in the jurisdiction’s
16 source reduction and recycling element or household hazardous
17 waste element.

18 (3) In determining whether a jurisdiction has made a good faith
19 effort, the board shall consider the enforcement criteria included
20 in its enforcement policy, as adopted on April 25, 1995, or as
21 subsequently amended.

22 (4) The board shall consider all of the following when
23 considering whether a jurisdiction has made a good faith effort to
24 implement its source reduction and recycling element or its
25 household hazardous waste element:

26 (A) Natural disasters.

27 (B) Budgetary conditions within a jurisdiction that could not
28 be remedied by the imposition or adjustment of solid waste fees.

29 (C) Work stoppages that directly prevent a jurisdiction from
30 implementing its source reduction and recycling element or
31 household hazardous waste element.

32 (D) The impact of the failure of federal, state, and other local
33 agencies located within the jurisdiction to implement source
34 reduction and recycling programs in the jurisdiction.

35 (E) The extent to which the jurisdiction has implemented
36 additional source reduction, recycling, and composting activities.

37 (F) The extent to which the jurisdiction has made program
38 implementation choices driven by considerations related to other
39 environmental issues, including climate change.

1 (G) Whether the jurisdiction has provided information to the
2 board concerning whether construction and demolition waste
3 material is at least a moderately significant portion of the waste
4 stream, and, if so, whether the local jurisdiction has adopted an
5 ordinance for diversion of construction and demolition waste
6 materials from solid waste disposal facilities, has adopted a model
7 ordinance pursuant to subdivision (a) of Section 42912 for
8 diversion of construction and demolition waste materials from
9 solid waste disposal facilities, or has implemented another program
10 to encourage or require diversion of construction and demolition
11 waste materials from solid waste disposal facilities.

12 (H) The extent to which the jurisdiction has implemented
13 programs to comply with Section 41780 and to maintain its per
14 capita disposal rate.

15 (5) In making a determination whether a jurisdiction has made
16 a good faith effort, pursuant to this section, the board may consider
17 a jurisdiction's per capita disposal rate as a factor in determining
18 whether the jurisdiction adequately implemented its diversion
19 programs. The board shall not consider a jurisdiction's per capita
20 disposal rate to be determinative as to whether the jurisdiction has
21 made a good faith effort to implement its source reduction and
22 recycling element or its household hazardous waste element.

23 (f) This section shall remain in effect only until January 1, 2018,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2018, deletes or extends that date.

26 SEC. 160. Section 71205.3 of the Public Resources Code is
27 amended to read:

28 71205.3. (a) On or before January 1, 2008, the commission
29 shall adopt regulations that do all of the following:

30 (1) Except as provided otherwise in Section 71204.7, require
31 an owner or operator of a vessel carrying, or capable of carrying,
32 ballast water that operates in the waters of the state to implement
33 the interim performance standards for the discharge of ballast water
34 recommended in accordance with Table x-1 of the California State
35 Lands Commission Report on Performance Standards for Ballast
36 Water Discharges in California Waters, as approved by the
37 commission on January 26, 2006.

38 (2) Except as provided otherwise in Section 71204.7, require
39 an owner or operator of a vessel carrying, or capable of carrying,

1 ballast water that operates in the waters of the state to comply with
2 the following implementation schedule:

3			
4	Ballast water capacity	Standards apply to new	Standards apply to all
5	of vessel	vessels in this size class	other vessels in this size
6		constructed on or after:	class beginning on:
7	<1500 metric tons	January 1, 2010	January 1, 2016
8	1500-5000 metric tons	January 1, 2010	January 1, 2014
9	>5000 metric tons	January 1, 2012	January 1, 2016

10
11 (3) Notwithstanding Section 71204.7, require an owner or
12 operator of a vessel carrying, or capable of carrying, ballast water
13 that operates in the waters of the state to meet the final performance
14 standard for the discharge of ballast water of zero detectable for
15 all organism size classes by 2020, as approved by the commission
16 on January 26, 2006.

17 (b) On or before January 1, 2009, for the interim performance
18 standards specified in paragraph (1) of subdivision (a) that have
19 to be complied with in 2010, as specified in paragraph (2) of
20 subdivision (a), and not less than 18 months prior to the scheduled
21 compliance date specified in paragraph (2) of subdivision (a) for
22 each subsequent class and the date for implementation of the final
23 performance standard, as specified in paragraph (3) of subdivision
24 (a), the commission, in consultation with the State Water Resources
25 Control Board, the United States Coast Guard, and the advisory
26 panel described in subdivision (b) of Section 71204.9, shall prepare,
27 or update, and submit to the Legislature a review of the efficacy,
28 availability, and environmental impacts, including the effect on
29 water quality, of currently available technologies for ballast water
30 treatment systems. If technologies to meet the performance
31 standards are determined in a review to be unavailable, the
32 commission shall include in that review an assessment of why the
33 technologies are unavailable.

34 SEC. 161. Section 75125 of the Public Resources Code is
35 amended to read:

36 75125. The council shall do all of the following:
37 (a) Identify and review activities and funding programs of
38 member state agencies that may be coordinated to improve air and
39 water quality, improve natural resource protection, increase the
40 availability of affordable housing, improve transportation, meet

1 the goals of the California Global Warming Solutions Act of 2006
2 (Division 25.5 (commencing with Section 38500) of the Health
3 and Safety Code), encourage sustainable land use planning, and
4 revitalize urban and community centers in a sustainable manner.
5 At a minimum, the council shall review and comment on the
6 five-year infrastructure plan developed pursuant to Article 2
7 (commencing with Section 13100) of Chapter 2 of Part 3 of
8 Division 3 of the Government Code and the State Environmental
9 Goals and Policy Report developed pursuant to Section 65041 of
10 the Government Code.

11 (b) Recommend policies and investment strategies and priorities
12 to the Governor, the Legislature, and to appropriate state agencies
13 to encourage the development of sustainable communities, such
14 as those communities that promote equity, strengthen the economy,
15 protect the environment, and promote public health and safety,
16 consistent with subdivisions (a) and (c) of Section 75065.

17 (c) Provide, fund, and distribute data and information to local
18 governments and regional agencies that will assist in developing
19 and planning sustainable communities.

20 (d) Manage and award grants and loans to support the planning
21 and development of sustainable communities, pursuant to Sections
22 75127, 75128, and 75129. To implement this subdivision, the
23 council may do all of the following:

24 (1) Develop guidelines for awarding financial assistance,
25 including criteria for eligibility and additional consideration.

26 (2) Develop criteria for determining the amount of financial
27 assistance to be awarded. The council shall award a revolving loan
28 to an applicant for a planning project, unless the council determines
29 that the applicant lacks the fiscal capacity to carry out the project
30 without a grant. The council may establish criteria that would allow
31 the applicant to illustrate an ongoing commitment of financial
32 resources to ensure the completion of the proposed plan or project.

33 (3) Provide for payments of interest on loans made pursuant to
34 this article. The rate of interest shall not exceed the rate earned by
35 the Pooled Money Investment Board.

36 (4) Provide for the time period for repaying a loan made
37 pursuant to this article.

38 (5) Provide for the recovery of funds from an applicant that fails
39 to complete the project for which financial assistance was awarded.

1 The council shall direct the Controller to recover funds by any
2 available means.

3 (6) Provide technical assistance for application preparation.

4 (7) Designate a state agency or department to administer
5 technical and financial assistance programs for the disbursing of
6 grants and loans to support the planning and development of
7 sustainable communities, pursuant to Sections 75127, 75128, and
8 75129.

9 (e) No later than July 1, 2010, and every year thereafter, provide
10 a report to the Legislature that shall include, but is not limited to,
11 all of the following:

12 (1) A list of applicants for financial assistance.

13 (2) Identification of which applications were approved.

14 (3) The amounts awarded for each approved application.

15 (4) The remaining balance of available funds.

16 (5) A report on the proposed or ongoing management of each
17 funded project.

18 (6) Any additional minimum requirements and priorities for a
19 project or plan proposed in a grant or loan application developed
20 and adopted by the council pursuant to subdivision (c) of Section
21 75126.

22 SEC. 162. Section 281 of the Public Utilities Code, as amended
23 by Section 64 of Chapter 751 of the Statutes of 2008, is amended
24 and renumbered to read:

25 282. Any revenues that are deposited in funds created pursuant
26 to this chapter shall not be used by the state for any purpose other
27 than as specified in this chapter. Notwithstanding any other
28 provision of law, the Controller may use the funds created pursuant
29 to this chapter for loans to the General Fund as provided in Sections
30 16310 and 16381 of the Government Code.

31 SEC. 163. Section 739 of the Public Utilities Code is amended
32 to read:

33 739. (a) As used in this section:

34 (1) "Baseline quantity" means a quantity of electricity or gas
35 allocated by the commission for residential customers based on
36 from 50 to 60 percent of average residential consumption of these
37 commodities, except that, for residential gas customers and for
38 all-electric residential customers, the baseline quantity shall be
39 established at from 60 to 70 percent of average residential
40 consumption during the winter heating season. In establishing the

1 baseline quantities, the commission shall take into account climatic
2 and seasonal variations in consumption and the availability of gas
3 service. The commission shall review and revise baseline quantities
4 as average consumption patterns change in order to maintain these
5 ratios.

6 (2) “Residential customer” means those customers receiving
7 electrical or gas service pursuant to a domestic rate schedule and
8 excludes industrial, commercial, and every other category of
9 customer.

10 (b) The commission shall designate a baseline quantity of gas
11 and electricity which is necessary to supply a significant portion
12 of the reasonable energy needs of the average residential customer.
13 In estimating those quantities, the commission shall take into
14 account differentials in energy needs between customers whose
15 residential energy needs are currently supplied by electricity alone
16 or by both electricity and gas. The commission shall develop a
17 separate baseline quantity for all-electric residential customers.
18 For these purposes, “all-electric residential customers” are
19 residential customers having electrical service only or whose space
20 heating is provided by electricity, or both. The commission shall
21 also take into account differentials in energy use by climatic zone
22 and season.

23 (c) (1) The commission shall establish a standard limited
24 allowance which shall be in addition to the baseline quantity of
25 gas and electricity for residential customers dependent on
26 life-support equipment, including, but not limited to, emphysema
27 and pulmonary patients. A residential customer dependent on
28 life-support equipment shall be allocated a higher energy allocation
29 than the average residential customer.

30 (2) “Life-support equipment” means that equipment which
31 utilizes mechanical or artificial means to sustain, restore, or
32 supplant a vital function, or mechanical equipment which is relied
33 upon for mobility both within and outside of buildings.
34 “Life-support equipment,” as used in this subdivision, includes all
35 of the following: all types of respirators, iron lungs, hemodialysis
36 machines, suction machines, electric nerve stimulators, pressure
37 pads and pumps, aerosol tents, electrostatic and ultrasonic
38 nebulizers, compressors, IPPB machines, and motorized
39 wheelchairs.

1 (3) The limited allowance specified in this subdivision shall
2 also be made available to paraplegic and quadriplegic persons in
3 consideration of the increased heating and cooling needs of those
4 persons.

5 (4) The limited allowance specified in this subdivision shall
6 also be made available to multiple sclerosis patients in
7 consideration of the increased heating and cooling needs of those
8 persons.

9 (5) The limited allowance specified in this subdivision shall
10 also be made available to scleroderma patients in consideration of
11 the increased heating needs of those persons.

12 (6) The limited allowance specified in this subdivision shall
13 also be made available to persons who are being treated for a
14 life-threatening illness or have a compromised immune system, if
15 a licensed physician and surgeon or a person licensed pursuant to
16 the Osteopathic Initiative Act certifies in writing to the utility that
17 the additional heating or cooling allowance, or both, is medically
18 necessary to sustain the life of the person or prevent deterioration
19 of the person's medical condition.

20 (d) (1) The commission shall require that every electrical and
21 gas corporation file a schedule of rates and charges providing
22 baseline rates. The baseline rates shall apply to the first or lowest
23 block of an increasing block rate structure which shall be the
24 baseline quantity. In establishing these rates, the commission shall
25 avoid excessive rate increases for residential customers, and shall
26 establish an appropriate gradual differential between the rates for
27 the respective blocks of usage.

28 (2) In establishing residential electric and gas rates, including
29 baseline rates, the commission shall ensure that the rates are
30 sufficient to enable the electrical corporation or gas corporation
31 to recover a just and reasonable amount of revenue from residential
32 customers as a class, while observing the principle that electricity
33 and gas services are necessities, for which a low affordable rate is
34 desirable and while observing the principle that conservation is
35 desirable in order to maintain an affordable bill.

36 (3) At least until December 31, 2003, the commission shall
37 require that all charges for residential electric customers are
38 volumetric, and shall prohibit any electrical corporation from
39 imposing any charges on residential consumption that are

1 independent of consumption, unless those charges are in place
2 prior to April 12, 2001.

3 (e) (1) Each electrical corporation and each gas corporation
4 shall, in a timeframe consistent with each electrical and gas
5 corporation's next general rate case, disclose on the billing
6 statement of a residential customer all of the following:

7 (A) Cost per kilowatthour or gas therm per tier.

8 (B) Allocation of kilowatthour or gas therm per tier.

9 (C) Visual representation of usage and cost per tier.

10 (D) Usage comparison with prior periods.

11 (E) Itemized cost components in the bill to identify state and
12 local taxes.

13 (F) Identification of delivery, generation, public purpose, and
14 other charges.

15 (G) Contact information for the commission's Consumer Affairs
16 Branch.

17 (2) An electrical corporation and a gas corporation shall make
18 available online to residential customers both of the following:

19 (A) Examples of how conservation measures, including changing
20 thermostat settings and turning off unused lights, could reduce
21 energy usage and costs.

22 (B) Examples of how energy-saving devices and weatherization
23 measures could reduce energy usage and costs.

24 (3) The commission may modify, adjust, or add to the
25 requirements of this subdivision as the individual circumstances
26 of each electrical corporation or gas corporation merits, or for
27 master-meter customers, as individual circumstances merit.

28 (4) The commission shall, as part of the general rate case of an
29 electrical corporation or gas corporation, assess opportunities to
30 improve the quality of information contained in the utility's
31 periodic billings.

32 (f) Wholesale electrical or gas purchases, and the rates charged
33 therefor, are exempt from this section.

34 (g) Nothing contained in this section shall be construed to
35 prohibit experimentation with alternative gas or electrical rate
36 schedules for the purpose of achieving energy conservation.

37 SEC. 164. Section 99171 of the Public Utilities Code is
38 amended to read:

39 99171. (a) (1) A transit district may issue a prohibition order
40 to any person to whom either of the following applies:

1 (A) On at least three separate occasions within a period of 60
2 consecutive days, the person is cited for an infraction committed
3 in or on a vehicle, bus stop, or light rail station of the transit district
4 for any act that is a violation of paragraph (2) or (5) of subdivision
5 (a) of Section 99170 of this code or paragraph (6), (7), (8), or (9)
6 of subdivision (b) of Section 640 or Section 640.5 of the Penal
7 Code.

8 (B) The person is arrested or convicted for a misdemeanor or
9 felony committed in or on a vehicle, bus stop, or light rail station
10 of the transit district for acts involving violence, threats of violence,
11 lewd or lascivious behavior, or possession for sale or sale of a
12 controlled substance.

13 (C) The person is convicted of a violation of Section 11532 of
14 the Health and Safety Code or Section 653.22 of the Penal Code.

15 (2) A person subject to a prohibition order may not enter the
16 property, facilities, or vehicles of the transit district for a period
17 of time deemed appropriate by the transit district, provided that
18 the duration of a prohibition order shall not exceed the following,
19 as applicable:

20 (A) Thirty days if issued pursuant to subparagraph (A) of
21 paragraph (1), provided that a second prohibition order within one
22 year may not exceed 90 days, and a third or subsequent prohibition
23 order within one year may not exceed 180 days.

24 (B) Thirty days if issued pursuant to an arrest pursuant to
25 subparagraph (B) of paragraph (1). Upon conviction of a
26 misdemeanor offense, the duration of the prohibition order for the
27 conviction, when added to the duration of the prohibition order
28 for the initial arrest, if any, may not exceed 180 days. Upon
29 conviction of a felony offense, the duration of the prohibition order
30 for the conviction, when added to the duration of the prohibition
31 order for the initial arrest, if any, may not exceed one year.

32 (3) No prohibition order issued under this subdivision shall be
33 effective unless the transit district first affords the person an
34 opportunity to contest the transit district's proposed action in
35 accordance with procedures adopted by the transit district for this
36 purpose. A transit district's procedures shall provide, at a minimum,
37 for the notice and other protections set forth in subdivisions (b)
38 and (c), and the transit district shall provide reasonable notification
39 to the public of the availability of those procedures.

1 (b) (1) A notice of a prohibition order issued under subdivision
2 (a) shall set forth a description of the conduct underlying the
3 violation or violations giving rise to the prohibition order, including
4 reference to the applicable statutory provision, ordinance, or transit
5 district rule violated, the date of the violation, the approximate
6 time of the violation, the location where the violation occurred,
7 the period of the proposed prohibition, and the scope of the
8 prohibition. The notice shall include a clear and conspicuous
9 statement indicating the procedure for contesting the prohibition
10 order. The notice of prohibition order shall be personally served
11 upon the violator. The notice of prohibition order, or a copy, shall
12 be considered a record kept in the ordinary course of business of
13 the transit district and shall be prima facie evidence of the facts
14 contained in the notice establishing a rebuttable presumption
15 affecting the burden of producing evidence. For purposes of this
16 paragraph, “clear and conspicuous” means in larger type than the
17 surrounding text, or in contrasting type, font, or color to the
18 surrounding text of the same size, or set off from the surrounding
19 text of the same size by symbols or other marks that call attention
20 to the language.

21 (2) For purposes of this section, “personal service” means any
22 of the following:

23 (A) In-person delivery.

24 (B) Delivery by any form of mail providing for delivery
25 confirmation, postage prepaid, to at least one address provided by
26 the person being served, including, but not limited to, the address
27 set forth in any citation or in court records.

28 (C) Any alternate method approved in writing by the transit
29 district and the person being served.

30 (3) If a person served with a notice of prohibition order is not
31 able, or refuses, to provide a mailing address, the notice of
32 prohibition order shall set forth the procedure for obtaining any
33 letters, notices, or orders related to the prohibition order from the
34 administrative offices of the transit district. For purposes of this
35 section, delivery shall be deemed to have been made on the
36 following date, as applicable:

37 (A) On the date of delivery, if delivered in person.

38 (B) On the date of confirmed delivery, for any delivery by mail.

39 (C) For any alternate method of service, as provided in the
40 writing specifying the alternate method.

1 (4) Proof of service of the notice shall be filed with the transit
2 district.

3 (5) If a person contests a notice of prohibition order, the transit
4 district shall proceed in accordance with subdivision (c). If the
5 notice of prohibition order is not contested within 10 calendar days
6 after delivery by personal service, the prohibition order shall be
7 deemed final and shall go into effect, without further action by the
8 transit district, for the period of time set forth in the order.

9 (6) All prohibition orders shall be subject to an automatic stay
10 and shall not take effect until the latest of the following:

11 (A) Eleven calendar days after delivery of the prohibition order
12 by personal service.

13 (B) If an initial review is timely requested under paragraph (1)
14 of subdivision (c), 11 calendar days after delivery by personal
15 service of the results of the review.

16 (C) If an administrative hearing is timely requested under
17 paragraph (3) of subdivision (c), the date the hearing officer's
18 decision is delivered by personal service.

19 (c) (1) For a period of 10 calendar days from the delivery of
20 the prohibition order by personal service, the person may request
21 an initial review of the prohibition order by the transit district. The
22 request may be made by telephone, in writing, or in person. There
23 shall be no charge for this review. In conducting its review and
24 reaching a determination, the transit district shall determine
25 whether the prohibition order meets the requirements of subdivision
26 (a) and, unless the person has been convicted of the offense or
27 offenses, whether the offense or offenses for which the person was
28 cited or arrested are proven by a preponderance of the evidence.
29 If, following the initial review, based on these findings, the transit
30 district determines that the prohibition order is not adequately
31 supported or that extenuating circumstances make dismissal of the
32 prohibition order appropriate in the interest of justice, the transit
33 district shall cancel the notice. If, following the initial review,
34 based on these findings, the transit district determines that the
35 prohibition order should be upheld in whole or in part, the transit
36 district shall issue a written statement to that effect, including any
37 modification to the period or scope of the prohibition order. The
38 transit district shall serve the results of the initial review to the
39 person contesting the notice by personal service.

1 (2) The transit district may modify or cancel a prohibition order
2 in the interest of justice. The transit district shall cancel a
3 prohibition order if it determines that the person did not understand
4 the nature and extent of his or her actions or did not have the ability
5 to control his or her actions. If the person is dependent upon the
6 transit system for trips of necessity, including, but not limited to,
7 travel to or from medical or legal appointments, school or training
8 classes, places of employment, or obtaining food, clothing, and
9 necessary household items, the transit district shall modify a
10 prohibition order to allow for those trips. A person requesting a
11 cancellation or modification in the interest of justice shall have
12 the burden of establishing the qualifying circumstances by a
13 preponderance of the evidence.

14 (3) If the person is dissatisfied with the results of the initial
15 review, the person may request an administrative hearing of the
16 prohibition order no later than 10 calendar days after the results
17 of the initial review are delivered by personal service. The request
18 may be made by telephone, in writing, or in person. An
19 administrative hearing shall be held within 30 calendar days after
20 the receipt of a request for an administrative hearing. The person
21 requesting the hearing may request one continuance, not to exceed
22 seven calendar days.

23 (4) The administrative hearing process shall include all of the
24 following:

25 (A) The person requesting the hearing shall have the choice of
26 a hearing by mail or in person. An in-person hearing shall be
27 conducted within the jurisdiction of the transit district.

28 (B) The administrative hearing shall be conducted in accordance
29 with written procedures established by the transit district and
30 approved by the governing body or chief executive officer of the
31 transit district. The hearing shall provide an independent, objective,
32 fair, and impartial review of the prohibition order.

33 (C) The administrative review shall be conducted before a
34 hearing officer designated to conduct the review by the transit
35 district's governing body or chief executive officer. In addition to
36 any other requirements, a hearing officer shall demonstrate the
37 qualifications, training, and objectivity prescribed by the transit
38 agency's governing body or chief executive officer as are necessary
39 to fulfill and that are consistent with the duties and responsibilities
40 set forth in this subdivision. The hearing officer's continued

1 service, performance evaluation, compensation, and benefits, as
2 applicable, shall not be directly or indirectly linked to the number
3 of prohibition orders upheld by the hearing officer.

4 (D) The person who issued the notice of prohibition order shall
5 not be required to participate in an administrative hearing, unless
6 participation is requested by the person requesting the hearing.
7 The request for participation must be made at least five calendar
8 days prior to the date of the hearing and may be made by telephone,
9 in writing, or in person. The notice of prohibition order, in proper
10 form, shall be prima facie evidence of the violation or violations
11 pursuant to subdivision (a) establishing a rebuttable presumption
12 affecting the burden of producing evidence.

13 (E) In issuing a decision, the hearing officer shall determine
14 whether the prohibition order meets the requirements of subdivision
15 (a) and, unless the person has been convicted of the offense or
16 offenses, whether the offense or offenses for which the person was
17 cited or arrested are proven by a preponderance of the evidence.
18 Based upon these findings, the hearing officer may uphold the
19 prohibition order in whole, determine that the prohibition order is
20 not adequately supported, or cancel or modify the prohibition order
21 in the interest of justice. The hearing officer shall cancel a
22 prohibition order if he or she determines that the person did not
23 understand the nature and extent of his or her actions or did not
24 have the ability to control his or her actions. If the person is
25 dependent upon the transit system for trips of necessity, including,
26 but not limited to, travel to or from medical or legal appointments,
27 school or training classes, places of employment, or obtaining
28 food, clothing, and necessary household items, the transit district
29 shall modify a prohibition order to allow for those trips. A person
30 requesting a cancellation or modification in the interest of justice
31 shall have the burden of establishing the qualifying circumstances
32 by a preponderance of the evidence.

33 (F) The hearing officer's decision following the administrative
34 hearing shall be delivered by personal service.

35 (G) A person aggrieved by the final decision of the hearing
36 officer may seek judicial review of the decision within 90 days of
37 the date of delivery of the decision by personal service, as provided
38 by Section 1094.6 of the Code of Civil Procedure.

39 (d) A person issued a prohibition order under subdivision (a)
40 may, within 10 calendar days of the date the order goes into effect

1 under paragraph (6) of subdivision (b), request a refund for any
2 prepaid fare media rendered unusable in whole or in part by the
3 prohibition order, including, but not limited to, monthly passes. If
4 the fare media remain usable for one or more days outside the
5 period of the prohibition order, the refund shall be prorated based
6 on the number of days the fare media will be unusable. The
7 issuance of a refund may be made contingent on surrender of the
8 fare media.

9 (e) For purposes of this section “transit district” means the
10 Sacramento Regional Transit District or the Fresno Area Express.

11 (f) This section shall remain in effect only until January 1, 2012,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2012, deletes or extends that date.

14 SEC. 165. Section 101223 of the Public Utilities Code is
15 amended to read:

16 101223. The authority to incur indebtedness vested in the
17 district by the provisions of this article shall be in addition to any
18 right vested in it to receive a temporary transfer of funds pursuant
19 to the last paragraph of Section ~~26~~ 6 of Article XVI of the
20 California Constitution.

21 SEC. 166. Section 103311 of the Public Utilities Code is
22 amended to read:

23 103311. The district shall have the power to obtain temporary
24 transfers of funds in accordance with the last paragraph of Section
25 ~~26~~ 6 of Article XVI of the California Constitution.

26 SEC. 167. Section 120508 of the Public Utilities Code is
27 amended to read:

28 120508. (a) This article also applies to the employee relations
29 of employees of a nonprofit entity that operates public mass transit
30 services and that is solely owned by the board. For employee
31 relations regarding these employees, “board,” as used in this article,
32 means the board and the board of directors of the nonprofit entity
33 as the joint employer of the employees.

34 (b) The board may, at any time in its sole discretion, abolish
35 any nonprofit entity or merge any nonprofit entity with another
36 nonprofit entity or with the board.

37 (c) Upon abolishing or merging a nonprofit entity pursuant to
38 subdivision (b), the board shall become the sole employer of the
39 employees of the nonprofit entity and shall assume sole

1 responsibility to observe all existing labor contracts established
2 and maintained pursuant to this article.

3 (d) Except as may be agreed upon through the collective
4 bargaining process, nothing in this section shall prohibit or limit
5 the right of the board to contract with common carriers of persons
6 operating under a franchise, license, or other agreement. Any
7 provision in an existing collective bargaining agreement made
8 applicable to the board in its capacity as a joint employer with a
9 nonprofit entity pursuant to subdivision (a) or sole successor
10 employer pursuant to subdivision (b) that is intended to prohibit
11 or limit the right of a nonprofit entity to contract out covered
12 bargaining unit services to another common carrier of persons
13 shall not be binding upon the board with respect to any contract
14 for services entered into, renewed, or extended by the board prior
15 to January 1, 2004, and thereafter shall apply only to contracts for
16 bargaining unit services covered by an existing collective
17 bargaining agreement assumed by or binding upon the board as a
18 joint employer unless otherwise agreed upon through the collective
19 bargaining process. The amendments to this subdivision made by
20 Chapter 557 of the Statutes of 2005 are intended solely to clarify
21 existing law and shall not be interpreted either to enlarge or
22 contract the board's right to contract out for public transportation
23 services.

24 SEC. 168. Section 130680 of the Public Utilities Code is
25 amended to read:

26 130680. (a) The chief executive officer shall be responsible
27 for ensuring the MTA has an independent professional procurement
28 staff. The chief executive officer and designated procurement staff
29 shall be responsible for conducting an independent, autonomous
30 procurement process in accordance with state and federal law.

31 (b) Board members shall use objective judgment in voting on
32 a procurement award and base their decision on the criteria
33 established in the procurement documents.

34 (c) Board members or their staff shall not attempt to influence
35 contract awards.

36 (d) During any procurement process, board members or their
37 staff shall not communicate with MTA staff regarding the
38 procurement.

39 (e) Before the staff recommendation for an award is made
40 public, board members or their staff shall communicate only with

1 the chief executive officer or his or her designee regarding the
2 procurement. The chief executive officer shall keep a log of those
3 communications and shall report those communications and
4 responses in writing at the board meeting where action on the
5 procurement is scheduled.

6 (f) Board members or their staff shall not attempt to obtain
7 information about the recommendation of the award of a contract
8 until the recommendation is made public.

9 (g) Board members shall not release information about the
10 procurement to the public until the award recommendation is made
11 public.

12 (h) If a board member attempts to communicate with MTA staff
13 to influence the recommended award, this communication shall
14 be reported by staff to the inspector general.

15 SEC. 169. Section 130720 of the Public Utilities Code is
16 amended to read:

17 130720. (a) Board members shall file Statements of Economic
18 Interest with the ethics officer pursuant to state law, within 30 days
19 of assuming office, annually, and within 30 days of leaving office.

20 (b) Board members shall file an addendum to the statement
21 required under subdivision (a), disclosing all financial interests
22 both within and outside Los Angeles County, including those
23 financial interests received during the reporting period by all
24 entities in which the member is an officer, principal, partner, or
25 major shareholder.

26 (c) Any amendments to the Statement of Economic Interest or
27 addendum shall be filed within 30 days of the occurrence of the
28 change.

29 SEC. 170. Section 240308 of the Public Utilities Code is
30 amended to read:

31 240308. (a) If requested to do so by the commission in its
32 resolution calling for an election, the board of supervisors, as part
33 of the ballot proposition to approve the imposition of a retail
34 transactions and use tax, may seek authorization to issue bonds
35 for capital outlay expenditures as may be provided for in the
36 ordinance expenditure plan payable from the proceeds of the tax.

37 (b) The maximum bonded indebtedness that may be outstanding
38 at any one time shall be an amount equal to the sum of the principal
39 of, and interest on, the bonds, but not to exceed the estimated
40 proceeds of the tax, as determined by the plan. The amount of

1 bonds outstanding at any one time does not include the amount of
2 bonds, refunding bonds, or bond anticipation notes for which funds
3 necessary for the payment thereof have been set aside for that
4 purpose in a trust or escrow account.

5 (c) The proposition shall set forth each of the following:

6 (1) The actual percent of the tax.

7 (2) The duration of the tax if the plan specifies a time limit.

8 (3) The amount of bonds, if any, payable from the proceeds of
9 the tax.

10 (4) The commission as the agency imposing the tax.

11 (5) The appropriations limit of the commission, pursuant to
12 Section 4 of Article XIII B of the California Constitution.

13 (d) The sample ballot to be mailed to the voters, pursuant to
14 Section 13303 of the Elections Code, shall be the full proposition,
15 as set forth in the ordinance calling the election, and the voter
16 information handbook shall include the entire ordinance
17 expenditure plan.

18 SEC. 171. Section 7093.6 of the Revenue and Taxation Code,
19 as amended by Section 1 of Chapter 222 of the Statutes of 2008,
20 is amended to read:

21 7093.6. (a) (1) Beginning January 1, 2003, the executive
22 director and chief counsel of the board, or their delegates, may
23 compromise any final tax liability in which the reduction of tax is
24 seven thousand five hundred dollars (\$7,500) or less.

25 (2) Except as provided in paragraph (3), the board, upon
26 recommendation by its executive director and chief counsel, jointly,
27 may compromise a final tax liability involving a reduction in tax
28 in excess of seven thousand five hundred dollars (\$7,500). Any
29 recommendation for approval of an offer in compromise that is
30 not either approved or disapproved within 45 days of the
31 submission of the recommendation shall be deemed approved.

32 (3) The board, itself, may by resolution delegate to the executive
33 director and the chief counsel, jointly, the authority to compromise
34 a final tax liability in which the reduction of tax is in excess of
35 seven thousand five hundred dollars (\$7,500), but less than ten
36 thousand dollars (\$10,000).

37 (b) For purposes of this section, “a final tax liability” means
38 any final tax liability arising under Part 1 (commencing with
39 Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6
40 (commencing with Section 7251), and Part 1.7 (commencing with

1 Section 7280) or related interest, additions to tax, penalties, or
2 other amounts assessed under this part.

3 (c) (1) Offers in compromise shall be considered only for
4 liabilities that were generated from a business that has been
5 discontinued or transferred, where the taxpayer making the offer
6 no longer has a controlling interest or association with the
7 transferred business or has a controlling interest or association
8 with a similar type of business as the transferred or discontinued
9 business.

10 (2) Notwithstanding paragraph (1), a qualified final tax liability
11 may be compromised regardless of whether the business has been
12 discontinued or transferred or whether the taxpayer has a
13 controlling interest or association with a similar type of business
14 as the transferred or discontinued business. All other provisions
15 of this section that apply to a final tax liability shall also apply to
16 a qualified final tax liability, and no compromise shall be made
17 under this subdivision unless all other requirements of this section
18 are met. For purposes of this subdivision, a “qualified final tax
19 liability” means any of the following:

20 (A) That part of a final tax liability, including related interest,
21 additions to tax, penalties, or other amounts assessed under this
22 part, arising from a transaction or transactions in which the board
23 finds no evidence that the taxpayer collected sales tax
24 reimbursement or use tax from the purchaser or other person and
25 which was determined against the taxpayer under Article 2
26 (commencing with Section 6481), Article 3 (commencing with
27 Section 6511), and Article 5 (commencing with Section 6561) of
28 Chapter 5.

29 (B) A final tax liability, including related interest, additions to
30 tax, penalties, or other amounts assessed under this part, arising
31 under Article 7 (commencing with Section 6811) of Chapter 6.

32 (C) That part of a final tax liability for use tax, including related
33 interest, additions to tax, penalties, or other amounts assessed under
34 this part, determined under Article 2 (commencing with Section
35 6481), Article 3 (commencing with Section 6511), and Article 5
36 (commencing with Section 6561) of Chapter 5, against a taxpayer
37 who is a consumer that is not required to hold a permit under
38 Section 6066.

39 (3) A qualified final tax liability may not be compromised with
40 any of the following:

1 (A) A taxpayer who previously received a compromise under
2 paragraph (2) for a liability, or a part thereof, arising from a
3 transaction or transactions that are substantially similar to the
4 transaction or transactions attributable to the liability for which
5 the taxpayer is making the offer.

6 (B) A business that was transferred by a taxpayer who previously
7 received a compromise under paragraph (2) and who has a
8 controlling interest or association with the transferred business,
9 when the liability for which the offer is made is attributable to a
10 transaction or transactions substantially similar to the transaction
11 or transactions for which the taxpayer’s liability was previously
12 compromised.

13 (C) A business in which a taxpayer who previously received a
14 compromise under paragraph (2) has a controlling interest or
15 association with a similar type of business for which the taxpayer
16 received the compromise, when the liability of the business making
17 the offer arose from a transaction or transactions substantially
18 similar to the transaction or transactions for which the taxpayer’s
19 liability was previously compromised.

20 (d) The board may, in its discretion, enter into a written
21 agreement that permits the taxpayer to pay the compromise in
22 installments for a period not exceeding one year. The agreement
23 may provide that the installments shall be paid by electronic funds
24 transfers or any other means to facilitate the payment of each
25 installment.

26 (e) Except for any recommendation for approval as specified
27 in subdivision (a), the members of the State Board of Equalization
28 shall not participate in any offer in compromise matters pursuant
29 to this section.

30 (f) A taxpayer that has received a compromise under paragraph
31 (2) of subdivision (c) may be required to enter into any collateral
32 agreement that is deemed necessary for the protection of the
33 interests of the state. A collateral agreement may include a
34 provision that allows the board to reestablish the liability, or any
35 portion thereof, if the taxpayer has sufficient annual income during
36 the succeeding five-year period. The board shall establish criteria
37 for determining “sufficient annual income” for purposes of this
38 subdivision.

39 (g) A taxpayer that has received a compromise under paragraph
40 (2) of subdivision (c) shall file and pay by the due date all

1 subsequently required sales and use tax returns for a five-year
2 period from the date the liability is compromised, or until the
3 taxpayer is no longer required to file sales and use tax returns,
4 whichever period is earlier.

5 (h) For amounts to be compromised under this section, the
6 following conditions shall exist:

7 (1) The taxpayer shall establish that:

8 (A) The amount offered in payment is the most that can be
9 expected to be paid or collected from the taxpayer's present assets
10 or income.

11 (B) The taxpayer does not have reasonable prospects of
12 acquiring increased income or assets that would enable the taxpayer
13 to satisfy a greater amount of the liability than the amount offered,
14 within a reasonable period of time.

15 (2) The board shall have determined that acceptance of the
16 compromise is in the best interest of the state.

17 (i) A determination by the board that it would not be in the best
18 interest of the state to accept an offer in compromise in satisfaction
19 of a final tax liability shall not be subject to administrative appeal
20 or judicial review.

21 (j) When an offer in compromise is either accepted or rejected,
22 or the terms and conditions of a compromise agreement are
23 fulfilled, the board shall notify the taxpayer in writing. In the event
24 an offer is rejected, the amount posted will either be applied to the
25 liability or refunded, at the discretion of the taxpayer.

26 (k) When more than one taxpayer is liable for the debt, such as
27 with spouses or partnerships or other business combinations, the
28 acceptance of an offer in compromise from one liable taxpayer
29 shall not relieve the other taxpayers from paying the entire liability.
30 However, the amount of the liability shall be reduced by the amount
31 of the accepted offer.

32 (l) Whenever a compromise of tax or penalties or total tax and
33 penalties in excess of five hundred dollars (\$500) is approved,
34 there shall be placed on file for at least one year in the office of
35 the executive director of the board a public record with respect to
36 that compromise. The public record shall include all of the
37 following information:

38 (1) The name of the taxpayer.

39 (2) The amount of unpaid tax and related penalties, additions
40 to tax, interest, or other amounts involved.

1 (3) The amount offered.

2 (4) A summary of the reason why the compromise is in the best
3 interest of the state.

4 The public record shall not include any information that relates
5 to any trade secrets, patent, process, style of work, apparatus,
6 business secret, or organizational structure, that if disclosed, would
7 adversely affect the taxpayer or violate the confidentiality
8 provisions of Section 7056. No list shall be prepared and no
9 releases distributed by the board in connection with these
10 statements.

11 (m) Any compromise made under this section may be rescinded,
12 all compromised liabilities may be reestablished (without regard
13 to any statute of limitations that otherwise may be applicable), and
14 no portion of the amount offered in compromise refunded, if either
15 of the following occurs:

16 (1) The board determines that any person did any of the
17 following acts regarding the making of the offer:

18 (A) Concealed from the board any property belonging to the
19 estate of any taxpayer or other person liable for the tax.

20 (B) Received, withheld, destroyed, mutilated, or falsified any
21 book, document, or record, or made any false statement, relating
22 to the estate or financial condition of the taxpayer or other person
23 liable for the tax.

24 (2) The taxpayer fails to comply with any of the terms and
25 conditions relative to the offer.

26 (n) Any person who, in connection with any offer or compromise
27 under this section, or offer of that compromise to enter into that
28 agreement, willfully does either of the following shall be guilty of
29 a felony and, upon conviction, shall be fined not more than fifty
30 thousand dollars (\$50,000) or imprisoned in the state prison, or
31 both, together with the costs of investigation and prosecution:

32 (1) Conceals from any officer or employee of this state any
33 property belonging to the estate of a taxpayer or other person liable
34 in respect of the tax.

35 (2) Receives, withholds, destroys, mutilates, or falsifies any
36 book, document, or record, or makes any false statement, relating
37 to the estate or financial condition of the taxpayer or other person
38 liable in respect of the tax.

39 (o) For purposes of this section, “person” means the taxpayer,
40 any member of the taxpayer’s family, any corporation, agent,

1 fiduciary, or representative of, or any other individual or entity
2 acting on behalf of, the taxpayer, or any other corporation or entity
3 owned or controlled by the taxpayer, directly or indirectly, or that
4 owns or controls the taxpayer, directly or indirectly.

5 (p) This section shall remain in effect only until January 1, 2013,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2013, deletes or extends that date.

8 SEC. 172. Section 7093.6 of the Revenue and Taxation Code,
9 as added by Section 1.5 of Chapter 222 of the Statutes of 2008, is
10 amended to read:

11 7093.6. (a) (1) The executive director and chief counsel of
12 the board, or their delegates, may compromise any final tax liability
13 in which the reduction of tax is seven thousand five hundred dollars
14 (\$7,500) or less.

15 (2) Except as provided in paragraph (3), the board, upon
16 recommendation by its executive director and chief counsel, jointly,
17 may compromise a final tax liability involving a reduction in tax
18 in excess of seven thousand five hundred dollars (\$7,500). Any
19 recommendation for approval of an offer in compromise that is
20 not either approved or disapproved within 45 days of the
21 submission of the recommendation shall be deemed approved.

22 (3) The board, itself, may by resolution delegate to the executive
23 director and the chief counsel, jointly, the authority to compromise
24 a final tax liability in which the reduction of tax is in excess of
25 seven thousand five hundred dollars (\$7,500), but less than ten
26 thousand dollars (\$10,000).

27 (b) For purposes of this section, “a final tax liability” means
28 any final tax liability arising under Part 1 (commencing with
29 Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6
30 (commencing with Section 7251), and Part 1.7 (commencing with
31 Section 7280) or related interest, additions to tax, penalties, or
32 other amounts assessed under this part.

33 (c) Offers in compromise shall be considered only for liabilities
34 that were generated from a business that has been discontinued or
35 transferred, where the taxpayer making the offer no longer has a
36 controlling interest or association with the transferred business or
37 has a controlling interest or association with a similar type of
38 business as the transferred or discontinued business.

39 (d) For amounts to be compromised under this section, the
40 following conditions shall exist:

1 (1) The taxpayer shall establish that:

2 (A) The amount offered in payment is the most that can be
3 expected to be paid or collected from the taxpayer’s present assets
4 or income.

5 (B) The taxpayer does not have reasonable prospects of
6 acquiring increased income or assets that would enable the taxpayer
7 to satisfy a greater amount of the liability than the amount offered,
8 within a reasonable period of time.

9 (2) The board shall have determined that acceptance of the
10 compromise is in the best interest of the state.

11 (e) A determination by the board that it would not be in the best
12 interest of the state to accept an offer in compromise in satisfaction
13 of a final tax liability shall not be subject to administrative appeal
14 or judicial review.

15 (f) When an offer in compromise is either accepted or rejected,
16 or the terms and conditions of a compromise agreement are
17 fulfilled, the board shall notify the taxpayer in writing. In the event
18 an offer is rejected, the amount posted will either be applied to the
19 liability or refunded, at the discretion of the taxpayer.

20 (g) When more than one taxpayer is liable for the debt, such as
21 with spouses or partnerships or other business combinations, the
22 acceptance of an offer in compromise from one liable taxpayer
23 shall not relieve the other taxpayers from paying the entire liability.
24 However, the amount of the liability shall be reduced by the amount
25 of the accepted offer.

26 (h) Whenever a compromise of tax or penalties or total tax and
27 penalties in excess of five hundred dollars (\$500) is approved,
28 there shall be placed on file for at least one year in the office of
29 the executive director of the board a public record with respect to
30 that compromise. The public record shall include all of the
31 following information:

32 (1) The name of the taxpayer.

33 (2) The amount of unpaid tax and related penalties, additions
34 to tax, interest, or other amounts involved.

35 (3) The amount offered.

36 (4) A summary of the reason why the compromise is in the best
37 interest of the state.

38 The public record shall not include any information that relates
39 to any trade secrets, patent, process, style of work, apparatus,
40 business secret, or organizational structure, that if disclosed, would

1 adversely affect the taxpayer or violate the confidentiality
2 provisions of Section 7056. No list shall be prepared and no
3 releases distributed by the board in connection with these
4 statements.

5 (i) Any compromise made under this section may be rescinded,
6 all compromised liabilities may be reestablished (without regard
7 to any statute of limitations that otherwise may be applicable), and
8 no portion of the amount offered in compromise refunded, if either
9 of the following occurs:

10 (1) The board determines that any person did any of the
11 following acts regarding the making of the offer:

12 (A) Concealed from the board any property belonging to the
13 estate of any taxpayer or other person liable for the tax.

14 (B) Received, withheld, destroyed, mutilated, or falsified any
15 book, document, or record, or made any false statement, relating
16 to the estate or financial condition of the taxpayer or other person
17 liable for the tax.

18 (2) The taxpayer fails to comply with any of the terms and
19 conditions relative to the offer.

20 (j) Any person who, in connection with any offer or compromise
21 under this section, or offer of that compromise to enter into that
22 agreement, willfully does either of the following shall be guilty of
23 a felony and, upon conviction, shall be fined not more than fifty
24 thousand dollars (\$50,000) or imprisoned in the state prison, or
25 both, together with the costs of investigation and prosecution:

26 (1) Conceals from any officer or employee of this state any
27 property belonging to the estate of a taxpayer or other person liable
28 in respect of the tax.

29 (2) Receives, withholds, destroys, mutilates, or falsifies any
30 book, document, or record, or makes any false statement, relating
31 to the estate or financial condition of the taxpayer or other person
32 liable in respect of the tax.

33 (k) For purposes of this section, “person” means the taxpayer,
34 any member of the taxpayer’s family, any corporation, agent,
35 fiduciary, or representative of, or any other individual or entity
36 acting on behalf of, the taxpayer, or any other corporation or entity
37 owned or controlled by the taxpayer, directly or indirectly, or that
38 owns or controls the taxpayer, directly or indirectly.

39 (l) This section shall become operative on January 1, 2013.

1 SEC. 173. Section 18862 of the Revenue and Taxation Code
2 is amended to read:

3 18862. There is hereby created in the State Treasury the
4 California Cancer Research Fund to receive contributions made
5 pursuant to Section 18861. The Franchise Tax Board shall notify
6 the Controller of both the amount of money paid by taxpayers in
7 excess of their tax liability and the amount of refund money that
8 taxpayers have designated pursuant to Section 18861 to be
9 transferred to the California Cancer Research Fund. The Controller
10 shall transfer from the Personal Income Tax Fund to the California
11 Cancer Research Fund an amount not in excess of the sum of the
12 amounts designated by individuals pursuant to Section 18861 for
13 payment into that fund.

14 SEC. 174. Section 19551.5 of the Revenue and Taxation Code
15 is amended to read:

16 19551.5. (a) Notwithstanding any other law, each city that
17 assesses a city business tax or requires a city business license shall,
18 upon the request of the Franchise Tax Board, annually submit to
19 the Franchise Tax Board the information that is collected in the
20 course of administration of the city's business tax program, as
21 described in subdivision (b).

22 (b) Information, collected in the course of administration of the
23 city's business tax program, shall be limited to the following:

24 (1) Name of the business, if the business is a corporation,
25 partnership, or limited liability company, or the owner's name if
26 the business is a sole proprietorship.

27 (2) Business mailing address.

28 (3) Federal employer identification number, if applicable, or
29 the business owner's social security number.

30 (4) Standard Industrial Classification (SIC) Code or North
31 American Industry Classification System (NAICS) Code.

32 (5) Business start date.

33 (6) Business cease date.

34 (7) City number.

35 (8) Ownership type.

36 (c) The reports required under this section shall be filed on
37 magnetic media such as tapes or compact discs, through a secure
38 electronic process, or in other machine-readable form, according
39 to standards prescribed by regulations promulgated by the
40 Franchise Tax Board.

1 (d) Cities that receive a request from the Franchise Tax Board
2 shall begin providing to the Franchise Tax Board the information
3 required by this section as soon as economically feasible, but no
4 later than December 31, 2009. The information shall be furnished
5 annually at a time and in the form that the Franchise Tax Board
6 may prescribe by regulation.

7 (e) The city data provided to the Franchise Tax Board under
8 this section is subject to Section 19542, and may not be used for
9 any purpose other than state tax enforcement or as otherwise
10 authorized by law.

11 (f) If a city enters into a reciprocal agreement with the Franchise
12 Tax Board pursuant to subdivision (a) of Section 19551.1, the city
13 shall also waive reimbursement for costs incurred to provide
14 information required under this section and shall be precluded
15 from obtaining reimbursement as specified under Section 5 of
16 Chapter 345 of the Statutes of 2008. The reciprocal agreement
17 shall specify that each party shall bear its own costs to furnish the
18 data involved in the exchange authorized by Section 19551.1 and
19 this section, and the Franchise Tax Board shall be precluded from
20 obtaining reimbursement as specified under subdivision (c) of
21 Section 19551.1.

22 (g) A city shall not be required to provide information to the
23 Franchise Tax Board pursuant to this section if the Franchise Tax
24 Board fails to provide tax information to the city pursuant to a
25 reciprocal agreement entered into pursuant to subdivision (a) of
26 Section 19551.1 for reasons other than concerns related to
27 confidentiality of tax information provided to the city.

28 (h) This section shall remain in effect through and including
29 December 31, 2013, and shall be repealed on January 1, 2014.

30 SEC. 175. Section 164.53 of the Streets and Highways Code
31 is amended to read:

32 164.53. (a) A local agency may request authorization from
33 the commission to make advance expenditures of funds, other than
34 state or federal funds, for a project which is included in the priority
35 list for the allocation of transit capital improvement funds pursuant
36 to Section 99317 of the Public Utilities Code, or is included in the
37 adopted state transportation improvement program, or is
38 specifically authorized by Chapter 3 (commencing with Section
39 99620) of Part 11.5 of Division 10 of the Public Utilities Code.

1 (b) If the commission approves a request submitted pursuant to
2 subdivision (a), the approved advance expenditures shall be
3 considered either part of the nonfederal share of project costs, or
4 part of the match from public or private sources, for projects which
5 are included in the transit capital improvement program pursuant
6 to Section 99317 of the Public Utilities Code, or included in the
7 state transportation improvement program, or which are authorized
8 by Chapter 3 (commencing with Section 99620) of Part 11.5 of
9 Division 10 of the Public Utilities Code.

10 (c) The commission's approval of a request pursuant to
11 subdivision (b) does not, in and of itself, constitute an obligation
12 to allocate state funds for the project.

13 (d) The commission, in consultation with the department and
14 local transportation officials, shall develop and adopt guidelines
15 to implement this section. The guidelines shall include a
16 requirement that the advance expenditure of funds will result in
17 the completion of an operable segment of a transportation project.
18 The acquisition of right-of-way needed either for a usable urban
19 or commuter rail project or an operable segment of an urban or
20 commuter rail project meets that requirement.

21 (e) The commission shall prepare a report on the progress and
22 impact of the advance expenditure program authorized by this
23 section and shall include the report as an element of the annual
24 report to the Legislature required pursuant to Sections 14535 and
25 14536 of the Government Code.

26 SEC. 176. Section 1967.10 of the Streets and Highways Code
27 is amended to read:

28 1967.10. Not later than three years and no sooner than one year
29 after the transportation management agency first collects revenues
30 from the congestion pricing fees authorized under Section 1967.5,
31 the authority shall conduct a public opinion survey regarding the
32 congestion pricing demonstration program and provide a report to
33 the Assembly Committee on Transportation and the Senate
34 Committee on Transportation and Housing on its findings,
35 conclusions, and recommendations concerning the congestion
36 pricing demonstration program authorized by this act. The report
37 shall include an analysis of the success of the congestion pricing
38 demonstration program on minimizing vehicle miles traveled and
39 motor vehicle trips on the San Francisco-Oakland Bay Bridge and
40 increasing public transit use, as well as an economic analysis of

1 the program's impact on funding public transportation
2 improvements and operations.

3 SEC. 177. Section 30914 of the Streets and Highways Code
4 is amended to read:

5 30914. (a) In addition to any other authorized expenditures of
6 toll bridge revenues, the following major projects may be funded
7 from toll revenues of all bridges:

8 (1) Dumbarton Bridge: Improvement of the western approaches
9 from Route 101 if affected local governments are involved in the
10 planning.

11 (2) San Mateo-Hayward Bridge and approaches: Widening of
12 the bridge to six lanes, construction of rail transit capital
13 improvements on the bridge structure, and improvements to the
14 Route 92/Route 880 interchange.

15 (3) Construction of West Grand connector or an alternate project
16 designed to provide comparable benefit by reducing vehicular
17 traffic congestion on the eastern approaches to the San
18 Francisco-Oakland Bay Bridge. Affected local governments shall
19 be involved in the planning.

20 (4) Not less than 90 percent of the revenues determined by the
21 authority as derived from the toll increase approved in 1988 for
22 class I vehicles on the San Francisco-Oakland Bay Bridge
23 authorized by Section 30917 shall be used exclusively for rail
24 transit capital improvements designed to reduce vehicular traffic
25 congestion on that bridge. This amount shall be calculated as 21
26 percent of the revenue generated each year by the collection of the
27 base toll at the level established by the 1988 increase on the San
28 Francisco-Oakland Bay Bridge.

29 (b) Notwithstanding any funding request for the transbay bus
30 terminal pursuant to Section 31015, the Metropolitan
31 Transportation Commission shall allocate toll bridge revenues in
32 an annual amount not to exceed three million dollars (\$3,000,000),
33 plus a 3.5-percent annual increase, to the department or to the
34 Transbay Joint Powers Authority after the department transfers
35 the title of the Transbay Terminal Building to that entity, for
36 operation and maintenance expenditures. This allocation shall be
37 payable from funds transferred by the Bay Area Toll Authority.
38 This transfer of funds is subordinate to any obligations of the
39 authority, now or hereafter existing, having a statutory or first
40 priority lien against the toll bridge revenues. The first annual

1 3.5-percent increase shall be made on July 1, 2004. The transfer
2 is further subject to annual certification by the department or the
3 Transbay Joint Powers Authority that the total Transbay Terminal
4 Building operating revenue is insufficient to pay the cost of
5 operation and maintenance without the requested funding.

6 (c) If the voters approve a toll increase in 2004 pursuant to
7 Section 30921, the authority shall, consistent with the provisions
8 of subdivisions (d) and (f), fund the projects described in this
9 subdivision and in subdivision (d) that shall collectively be known
10 as the Regional Traffic Relief Plan by bonding or transfers to the
11 Metropolitan Transportation Commission. These projects have
12 been determined to reduce congestion or to make improvements
13 to travel in the toll bridge corridors, from toll revenues of all
14 bridges:

15 (1) BART/MUNI Connection at Embarcadero and Civic Center
16 Stations. Provide direct access from the BART platform to the
17 MUNI platform at the above stations and equip new fare gates that
18 are TransLink ready. Three million dollars (\$3,000,000). The
19 project sponsor is BART.

20 (2) MUNI Metro Third Street Light Rail Line. Provide funding
21 for the surface and light rail transit and maintenance facility to
22 support MUNI Metro Third Street Light Rail service connecting
23 to Caltrain stations and the E-Line waterfront line. Thirty million
24 dollars (\$30,000,000). The project sponsor is MUNI.

25 (3) MUNI Waterfront Historic Streetcar Expansion. Provide
26 funding to rehabilitate historic streetcars and construct trackage
27 and terminal facilities to support service from the Caltrain
28 Terminal, the Transbay Terminal, and the Ferry Building, and
29 connecting the Fisherman's Wharf and northern waterfront. Ten
30 million dollars (\$10,000,000). The project sponsor is MUNI.

31 (4) East to West Bay Commuter Rail Service over the
32 Dumbarton Rail Bridge. Provide funding for the necessary track
33 and station improvements and rolling stock to interconnect the
34 BART and Capitol Corridor at Union City with Caltrain service
35 over the Dumbarton Rail Bridge, and interconnect and provide
36 track improvements for the ACE line with the same Caltrain service
37 at Centerville. Provide a new station at Sun Microsystems in Menlo
38 Park. One hundred thirty-five million dollars (\$135,000,000). The
39 project is jointly sponsored by the San Mateo County
40 Transportation Authority, Capitol Corridor, the Alameda County

1 Congestion Management Agency, and the Alameda County
2 Transportation Improvement Authority.

3 (5) Vallejo Station. Construct intermodal transportation hub for
4 bus and ferry service, including parking structure, at site of
5 Vallejo's current ferry terminal. Twenty-eight million dollars
6 (\$28,000,000). The project sponsor is the City of Vallejo.

7 (6) Solano County Express Bus Intermodal Facilities. Provide
8 competitive grant fund source, to be administered by the
9 Metropolitan Transportation Commission. Eligible projects are
10 Curtola Park and Ride, Benicia Intermodal Facility, Fairfield
11 Transportation Center, and Vacaville Intermodal Station. Priority
12 to be given to projects that are fully funded, ready for construction,
13 and serving transit service that operates primarily on existing or
14 fully funded high-occupancy vehicle lanes. Twenty million dollars
15 (\$20,000,000). The project sponsor is the Solano Transportation
16 Authority.

17 (7) Solano County Corridor Improvements near Interstate
18 80/Interstate 680 Interchange. Provide funding for improved
19 mobility in corridor based on recommendations of joint study
20 conducted by the Department of Transportation and the Solano
21 Transportation Authority. Cost-effective transit infrastructure
22 investment or service identified in the study shall be considered a
23 high priority. One hundred million dollars (\$100,000,000). The
24 project sponsor is the Solano Transportation Authority.

25 (8) Interstate 80: Eastbound High-Occupancy Vehicle (HOV)
26 Lane Extension from Route 4 to Carquinez Bridge. Construct
27 HOV-lane extension. Fifty million dollars (\$50,000,000). The
28 project sponsor is the Department of Transportation.

29 (9) Richmond Parkway Transit Center. Construct parking
30 structure and associated improvements to expand bus capacity.
31 Sixteen million dollars (\$16,000,000). The project sponsor is the
32 Alameda-Contra Costa Transit District, in coordination with West
33 Contra Costa Transportation Advisory Committee, Western Contra
34 Costa Transit Authority, City of Richmond, and the Department
35 of Transportation.

36 (10) Sonoma-Marín Area Rail Transit District (SMART)
37 Extension to Larkspur or San Quentin. Extend rail line from San
38 Rafael to a ferry terminal at Larkspur or San Quentin. Thirty-five
39 million dollars (\$35,000,000). Up to five million dollars
40 (\$5,000,000) may be used to study, in collaboration with the Water

1 Transit Authority, the potential use of San Quentin property as an
2 intermodal water transit terminal. The project sponsor is SMART.

3 (11) Greenbrae Interchange/Larkspur Ferry Access
4 Improvements. Provide enhanced regional and local access around
5 the Greenbrae Interchange to reduce traffic congestion and provide
6 multimodal access to the Richmond-San Rafael Bridge and
7 Larkspur Ferry Terminal by constructing a new full service
8 diamond interchange at Wornum Drive south of the Greenbrae
9 Interchange, extending a multiuse pathway from the new
10 interchange at Wornum Drive to East Sir Francis Drake Boulevard
11 and the Cal Park Hill rail right-of-way, adding a new lane to East
12 Sir Francis Drake Boulevard and rehabilitating the Cal Park Hill
13 Rail Tunnel and right-of-way approaches for bicycle and pedestrian
14 access to connect the San Rafael Transit Center with the Larkspur
15 Ferry Terminal. Sixty-five million dollars (\$65,000,000). The
16 project sponsor is the Marin County Congestion Management
17 Agency.

18 (12) Direct High-Occupancy Vehicle (HOV) lane connector
19 from Interstate 680 to the Pleasant Hill or Walnut Creek BART
20 stations or in close proximity to either station or as an extension
21 of the southbound Interstate 680 High-Occupancy Vehicle Lane
22 through the Interstate 680/State Highway Route 4 interchange
23 from North Main in Walnut Creek to Livorna Road. The County
24 Connection shall utilize up to one million dollars (\$1,000,000) of
25 the funds described in this paragraph to develop options and
26 recommendations for providing express bus service on the
27 Interstate 680 High-Occupancy Vehicle Lane south of the Benicia
28 Bridge in order to connect to BART. Upon completion of the plan,
29 the Contra Costa Transportation Authority shall adopt a preferred
30 alternative provided by the County Connection plan for future
31 funding. Following adoption of the preferred alternative, the
32 remaining funds may be expended either to fund the preferred
33 alternative or to extend the high-occupancy vehicle lane as
34 described in this paragraph. Fifteen million dollars (\$15,000,000).
35 The project is sponsored by the Contra Costa Transportation
36 Authority.

37 (13) Rail Extension to East Contra Costa/E-BART. Extend
38 BART from Pittsburg/Bay Point Station to Byron in East Contra
39 Costa County. Ninety-six million dollars (\$96,000,000). Project
40 funds may only be used if the project is in compliance with adopted

1 BART policies with respect to appropriate land use zoning in
2 vicinity of proposed stations. The project is jointly sponsored by
3 BART and the Contra Costa Transportation Authority.

4 (14) Capitol Corridor Improvements in Interstate 80/Interstate
5 680 Corridor. Fund track and station improvements, including the
6 Suisun Third Main Track and new Fairfield Station. Twenty-five
7 million dollars (\$25,000,000). The project sponsor is the Capitol
8 Corridor Joint Powers Authority and the Solano Transportation
9 Authority.

10 (15) Central Contra Costa Bay Area Rapid Transit (BART)
11 Crossover. Add new track before Pleasant Hill BART Station to
12 permit BART trains to cross to return track towards San Francisco.
13 Twenty-five million dollars (\$25,000,000). The project sponsor is
14 BART.

15 (16) Benicia-Martinez Bridge: New Span. Provide partial
16 funding for completion of new five-lane span between Benicia
17 and Martinez to significantly increase capacity in the I-680
18 corridor. Fifty million dollars (\$50,000,000). The project sponsor
19 is the Bay Area Toll Authority.

20 (17) Regional Express Bus North. Competitive grant program
21 for bus service in Richmond-San Rafael Bridge, Carquinez,
22 Benicia-Martinez, and Antioch Bridge corridors. Provide funding
23 for park and ride lots, infrastructure improvements, and rolling
24 stock. Eligible recipients include the Golden Gate Bridge Highway
25 and Transportation District, Vallejo Transit, Napa VINE,
26 Fairfield-Suisun Transit, Western Contra Costa Transit Authority,
27 Eastern Contra Costa Transit Authority, and Central Contra Costa
28 Transit Authority. The Golden Gate Bridge Highway and
29 Transportation District shall receive a minimum of one million six
30 hundred thousand dollars (\$1,600,000). Napa VINE shall receive
31 a minimum of two million four hundred thousand dollars
32 (\$2,400,000). Twenty million dollars (\$20,000,000). The project
33 sponsor is the Metropolitan Transportation Commission.

34 (18) TransLink. Integrate the bay area's regional smart card
35 technology, TransLink, with operator fare collection equipment
36 and expand system to new transit services. Twenty-two million
37 dollars (\$22,000,000). The project sponsor is the Metropolitan
38 Transportation Commission.

39 (19) Real-Time Transit Information. Provide a competitive grant
40 program for transit operators for assistance with implementation

1 of high-technology systems to provide real-time transit information
2 to riders at transit stops or via telephone, wireless, or Internet
3 communication. Priority shall be given to projects identified in the
4 commission's connectivity plan adopted pursuant to subdivision
5 (d) of Section 30914.5. Twenty million dollars (\$20,000,000). The
6 funds shall be administered by the Metropolitan Transportation
7 Commission.

8 (20) Safe Routes to Transit: Plan and construct bicycle and
9 pedestrian access improvements in close proximity to transit
10 facilities. Priority shall be given to those projects that best provide
11 access to regional transit services. Twenty-two million five hundred
12 thousand dollars (\$22,500,000). City Car Share shall receive two
13 million five hundred thousand dollars (\$2,500,000) to expand its
14 program within approximately one-quarter mile of transbay
15 regional transit terminals or stations. The City Car Share project
16 is sponsored by City Car Share and the Safe Routes to Transit
17 project is jointly sponsored by the East Bay Bicycle Coalition and
18 the Transportation and Land Use Coalition. These sponsors must
19 identify a public agency cosponsor for purposes of specific project
20 fund allocations.

21 (21) BART Tube Seismic Strengthening. Add seismic capacity
22 to existing BART tube connecting the East Bay with San Francisco.
23 One hundred forty-three million dollars (\$143,000,000). The
24 project sponsor is BART.

25 (22) Transbay Terminal/Downtown Caltrain Extension. A new
26 Transbay Terminal at First and Mission Streets in San Francisco
27 providing added capacity for transbay, regional, local, and intercity
28 bus services, the extension of Caltrain rail services into the
29 terminal, and accommodation of a future high-speed passenger
30 rail line to the terminal and eventual rail connection to the east
31 bay. Eligible expenses include project planning, design and
32 engineering, construction of a new terminal and its associated
33 ramps and tunnels, demolition of existing structures, design and
34 development of a temporary terminal, property and right-of-way
35 acquisitions required for the project, and associated project-related
36 administrative expenses. A bus- and train-ready terminal facility,
37 including purchase and acquisition of necessary rights-of-way for
38 the terminal, ramps, and rail extension, is the first priority for toll
39 funds for the Transbay Terminal/Downtown Caltrain Extension
40 Project. The temporary terminal operation shall not exceed five

1 years. One hundred fifty million dollars (\$150,000,000). The
2 project sponsor is the Transbay Joint Powers Authority.

3 (23) Oakland Airport Connector. New transit connection to link
4 BART, Capitol Corridor, and AC Transit with Oakland Airport.
5 The Port of Oakland shall provide a full funding plan for the
6 connector. Thirty million dollars (\$30,000,000). The project
7 sponsors are the Port of Oakland and BART.

8 (24) AC Transit Enhanced Bus-Phase 1 on Telegraph Avenue,
9 International Boulevard, and East 14th Street
10 (Berkeley-Oakland-San Leandro). Develop enhanced bus service
11 on these corridors, including bus bulbs, signal prioritization, new
12 buses, and other improvements. Priority of investment shall
13 improve the AC connection to BART on these corridors. Sixty-five
14 million dollars (\$65,000,000). The project sponsor is AC Transit.

15 (25) Transbay Commute Ferry Service. Purchase two vessels
16 for transbay ferry services. Second vessel funds to be released
17 upon demonstration of appropriate terminal locations, new
18 transit-oriented development, adequate parking, and sufficient
19 landside feeder connections to support ridership projections.
20 Twelve million dollars (\$12,000,000). The project sponsor is San
21 Francisco Bay Area Water Emergency Transportation Authority.
22 If the San Francisco Bay Area Water Emergency Transportation
23 Authority demonstrates to the Metropolitan Transportation
24 Commission that it has secured alternative funding for the two
25 vessel purchases described in this paragraph, the funds may be
26 used for terminal improvements or for consolidation of existing
27 ferry operations.

28 (26) Commute Ferry Service for Berkeley/Albany. Purchase
29 two vessels for ferry services between the Berkeley/Albany
30 Terminal and San Francisco. Parking access and landside feeder
31 connections must be sufficient to support ridership projections.
32 Twelve million dollars (\$12,000,000). The project sponsor is the
33 San Francisco Bay Area Water Emergency Transportation
34 Authority. If the San Francisco Bay Area Water Emergency
35 Transportation Authority demonstrates to the Metropolitan
36 Transportation Commission that it has secured alternative funding
37 for the two vessel purchases described in this paragraph, the funds
38 may be used for terminal improvements. If the San Francisco Bay
39 Area Water Emergency Transportation Authority does not have
40 an entitled terminal site within the Berkeley/Albany catchment

1 area by 2010 that meets its requirements, the funds described in
2 this paragraph and the operating funds described in paragraph (7)
3 of subdivision (d) shall be transferred to another site in the East
4 Bay. The City of Richmond shall be given first priority to receive
5 this transfer of funds if it has met the planning milestones identified
6 in its special study developed pursuant to paragraph (28).

7 (27) Commute Ferry Service for South San Francisco. Purchase
8 two vessels for ferry services to the Peninsula. Parking access and
9 landside feeder connections must be sufficient to support ridership
10 projections. Twelve million dollars (\$12,000,000). The project
11 sponsor is the San Francisco Bay Area Water Emergency
12 Transportation Authority. If the San Francisco Bay Area Water
13 Emergency Transportation Authority demonstrates to the
14 Metropolitan Transportation Commission that it has secured
15 alternative funding for the two vessel purchases described in this
16 paragraph, the funds may be used for terminal improvements.

17 (28) Water Transit Facility Improvements, Spare Vessels, and
18 Environmental Review Costs. Provide two backup vessels for
19 water transit services, expand berthing capacity at the Port of San
20 Francisco, and expand environmental studies and design for eligible
21 locations. Forty-eight million dollars (\$48,000,000). The project
22 sponsor is the San Francisco Bay Area Water Emergency
23 Transportation Authority. Up to one million dollars (\$1,000,000)
24 of the funds described in this paragraph shall be made available
25 for the San Francisco Bay Area Water Emergency Transportation
26 Authority to study accelerating development and other milestones
27 that would potentially increase ridership at the City of Richmond
28 ferry terminal.

29 (29) Regional Express Bus Service for San Mateo, Dumbarton,
30 and Bay Bridge Corridors. Expand park and ride lots, improve
31 HOV access, construct ramp improvements, and purchase rolling
32 stock. Twenty-two million dollars (\$22,000,000). The project
33 sponsors are AC Transit and Alameda County Congestion
34 Management Agency.

35 (30) I-880 North Safety Improvements. Reconfigure various
36 ramps on I-880 and provide appropriate mitigations between 29th
37 Avenue and 16th Avenue. Ten million dollars (\$10,000,000). The
38 project sponsors are the Alameda County Congestion Management
39 Agency, City of Oakland, and Department of Transportation.

1 (31) BART Warm Springs Extension. Extension of the existing
2 BART system from Fremont to Warm Springs in southern Alameda
3 County. Ninety-five million dollars (\$95,000,000). Up to ten
4 million dollars (\$10,000,000) shall be used for grade separation
5 work in the City of Fremont necessary to extend BART. The
6 project would facilitate a future rail service extension to the Silicon
7 Valley. The project sponsor is BART.

8 (32) I-580 (Tri Valley) Rapid Transit Corridor Improvements.
9 Provide rail or High-Occupancy Vehicle lane direct connector to
10 Dublin BART and other improvements on I-580 in Alameda
11 County for use by express buses. Sixty-five million dollars
12 (\$65,000,000). The project sponsor is the Alameda County
13 Congestion Management Agency.

14 (33) Regional Rail Master Plan. Provide planning funds for
15 integrated regional rail study pursuant to subdivision (f) of Section
16 30914.5. Six million five hundred thousand dollars (\$6,500,000).
17 The project sponsors are Caltrain and BART.

18 (34) Integrated Fare Structure Program. Provide planning funds
19 for the development of zonal monthly transit passes pursuant to
20 subdivision (e) of Section 30914.5. One million five hundred
21 thousand dollars (\$1,500,000). The project sponsor is the Translink
22 Consortium.

23 (35) Transit Commuter Benefits Promotion. Marketing program
24 to promote tax-saving opportunities for employers and employees
25 as specified in Section 132(f)(3) or 162(a) of the Internal Revenue
26 Code. Goal is to increase the participation rate of employers
27 offering employees a tax-free benefit to commute to work by
28 transit. The project sponsor is the Metropolitan Transportation
29 Commission. Five million dollars (\$5,000,000).

30 (36) Caldecott Tunnel Improvements. Provide funds to plan and
31 construct a fourth bore at the Caldecott Tunnel between Contra
32 Costa and Alameda Counties. The fourth bore will be a two-lane
33 bore with a shoulder or shoulders north of the current three bores.
34 The County Connection shall study all feasible alternatives to
35 increase transit capacity in the westbound corridor of State
36 Highway Route 24 between State Highway Route 680 and the
37 Caldecott Tunnel, including the study of the use of an express lane,
38 high-occupancy vehicle lane, and an auxiliary lane. The cost of
39 the study shall not exceed five hundred thousand dollars (\$500,000)
40 and shall be completed not later than January 15, 2006. Fifty

1 million five hundred thousand dollars (\$50,500,000). The project
2 sponsor is the Contra Costa Transportation Authority.

3 (d) Not more than 38 percent of the revenues generated from
4 the toll increase shall be made available annually for the purpose
5 of providing operating assistance for transit services as set forth
6 in the authority's annual budget resolution. The funds shall be
7 made available to the provider of the transit services subject to the
8 performance measures described in Section 30914.5. If the funds
9 cannot be obligated for operating assistance consistent with the
10 performance measures, these funds shall be obligated for other
11 operations consistent with this chapter.

12 Except for operating programs that do not have planned funding
13 increases and subject to the 38-percent limit on total operating cost
14 funding in any single year, following the first year of scheduled
15 operations, an escalation factor, not to exceed 1.5 percent per year,
16 shall be added to the operating cost funding through the 2015–16
17 fiscal year, to partially offset increased operating costs. The
18 escalation factors shall be contained in the operating agreements
19 described in Section 30914.5. Subject to the limitations of this
20 paragraph, the Metropolitan Transportation Commission may
21 annually fund the following operating programs as another
22 component of the Regional Traffic Relief Plan:

23 (1) Golden Gate Express Bus Service over the Richmond Bridge
24 (Route 40). Two million one hundred thousand dollars
25 (\$2,100,000).

26 (2) Napa VINE Service terminating at the Vallejo Intermodal
27 Terminal. Three hundred ninety thousand dollars (\$390,000).

28 (3) Regional Express Bus North Pool serving the Carquinez and
29 Benicia Bridge Corridors. Three million four hundred thousand
30 dollars (\$3,400,000).

31 (4) Regional Express Bus South Pool serving the Bay Bridge,
32 San Mateo Bridge, and Dumbarton Bridge Corridors. Six million
33 five hundred thousand dollars (\$6,500,000).

34 (5) Dumbarton Rail. Five million five hundred thousand dollars
35 (\$5,500,000).

36 (6) San Francisco Bay Area Water Emergency Transportation
37 Authority, Alameda/Oakland/Harbor Bay, Berkeley/Albany, South
38 San Francisco, Vallejo, or other transbay ferry service. A portion
39 of the operating funds may be dedicated to landside transit
40 operations. Fifteen million three hundred thousand dollars

1 (\$15,300,000). Funds historically made available to the City of
2 Vallejo or the City of Alameda shall continue to be allocated to
3 those cities until the date specified in the adopted transition plan
4 developed by the San Francisco Bay Area Water Emergency
5 Transportation Authority pursuant to subdivision (b) of Section
6 66540.32 of the Government Code. The authority may use up to
7 six hundred thousand dollars (\$600,000) to support development
8 of the transition plan and for transition-related costs, including,
9 but not limited to, reasonable administrative costs incurred by the
10 authority and transferring agencies on or after July 1, 2008, in
11 accordance with subdivision (e) of Section 66540.11 of the
12 Government Code, upon a determination by the Metropolitan
13 Transportation Commission that these costs are reasonable and
14 substantially the result of the transition. After adoption of the
15 transition plan and after formal agreement by the Cities of Alameda
16 and Vallejo to transition their ferry services to the authority in
17 accordance with the transition plan, the authority may use
18 additional funds, above the limits previously referenced in this
19 paragraph, for transition and transition-related activities, incurred
20 before or after the actual transfer of services, as specified in the
21 transition plan and approved by the Metropolitan Transportation
22 Commission. The authority may utilize funds from this section for
23 operation of the services transferred from the City of Vallejo or
24 the City of Alameda if approved by the Metropolitan
25 Transportation Commission.

26 (7) Owl Bus Service on BART Corridor. One million eight
27 hundred thousand dollars (\$1,800,000).

28 (8) MUNI Metro Third Street Light Rail Line. Two million five
29 hundred thousand dollars (\$2,500,000) without escalation.

30 (9) AC Transit Enhanced Bus Service on Telegraph Avenue,
31 International Boulevard, and East 14th Street in
32 Berkeley-Oakland-San Leandro. Three million dollars (\$3,000,000)
33 without escalation.

34 (10) TransLink, three-year operating program. Twenty million
35 dollars (\$20,000,000) without escalation.

36 (11) San Francisco Bay Area Water Emergency Transportation
37 Authority, regional planning and operations. Three million dollars
38 (\$3,000,000) without escalation.

39 (e) For all projects authorized under subdivision (c), the project
40 sponsor shall submit an initial project report to the Metropolitan

1 Transportation Commission before July 1, 2004. This report shall
2 include all information required to describe the project in detail,
3 including the status of any environmental documents relevant to
4 the project, additional funds required to fully fund the project, the
5 amount, if any, of funds expended to date, and a summary of any
6 impediments to the completion of the project. This report, or an
7 updated report, shall include a detailed financial plan and shall
8 notify the commission if the project sponsor will request toll
9 revenue within the subsequent 12 months. The project sponsor
10 shall update this report as needed or requested by the commission.
11 No funds shall be allocated by the commission for any project
12 authorized by subdivision (c) until the project sponsor submits the
13 initial project report, and the report is reviewed and approved by
14 the commission.

15 If multiple project sponsors are listed for projects listed in
16 subdivision (c), the commission shall identify a lead sponsor in
17 coordination with all identified sponsors, for purposes of allocating
18 funds. For any projects authorized under subdivision (c), the
19 commission shall have the option of requiring a memorandum of
20 understanding between itself and the project sponsor or sponsors
21 that shall include any specific requirements that must be met prior
22 to the allocation of funds provided under subdivision (c).

23 (f) The Metropolitan Transportation Commission shall annually
24 assess the status of programs and projects and shall allocate a
25 portion of funding made available under Section 30921 or 30958
26 for public information and advertising to support the services and
27 projects identified in subdivisions (c) and (d). If a program or
28 project identified in subdivision (c) has cost savings after
29 completion, taking into account construction costs and an estimate
30 of future settlement claims, or cannot be completed or cannot
31 continue due to delivery or financing obstacles making the
32 completion or continuation of the program or project unrealistic,
33 the commission shall consult with the program or project sponsor.
34 After consulting with the sponsor, the commission shall hold a
35 public hearing concerning the program or project. After the hearing,
36 the commission may vote to modify the program or the project's
37 scope, decrease its level of funding, or reassign some or all of the
38 funds to another project within the same bridge corridor. If a
39 program or project identified in subdivision (c) is to be
40 implemented with other funds not derived from tolls, the

1 commission shall follow the same consultation and hearing process
2 described above and may vote thereafter to reassign the funds to
3 another project consistent with the intent of this chapter. If an
4 operating program or project as identified in subdivision (d) cannot
5 achieve its performance objectives described in subdivision (a) of
6 Section 30914.5 or cannot continue due to delivery or financing
7 obstacles making the completion or continuation of the program
8 or project unrealistic, the commission shall consult with the
9 program or the project sponsor. After consulting with the sponsor,
10 the commission shall hold a public hearing concerning the program
11 or project. After the hearing, the commission may vote to modify
12 the program or the project's scope, decrease its level of funding,
13 or to reassign some or all of the funds to another or an additional
14 regional transit program or project within the same corridor. If a
15 program or project does not meet the required performance
16 measures, the commission shall give the sponsor a time certain to
17 achieve the performance measures before reassigning its funding.

18 (g) If the voters approve a toll increase pursuant to Section
19 30921, the authority shall within 24 months of the election date
20 include the projects in a long-range plan that are consistent with
21 the commission's findings required by this section and Section
22 30914.5. The authority shall update its long-range plan as required
23 to maintain its viability as a strategic plan for funding projects
24 authorized by this section. The authority shall by January 1, 2007,
25 submit its updated long-range plan to the transportation policy
26 committee of each house of the Legislature for review.

27 (h) If the voters approve a toll increase pursuant to Section
28 30921, and if additional funds from this toll increase are available
29 following the funding obligations of subdivisions (c) and (d), the
30 authority may set aside a reserve to fund future rolling stock
31 replacement to enhance the sustainability of the services
32 enumerated in subdivision (d). The authority shall, by January 1,
33 2020, submit a 20-year toll bridge expenditure plan to the
34 Legislature for adoption. This expenditure plan shall have, as its
35 highest priority, replacement of transit vehicles purchased pursuant
36 to subdivision (c).

37 SEC. 178. Section 1808.4 of the Vehicle Code is amended to
38 read:

- 1 1808.4. (a) For all of the following persons, his or her home
2 address that appears in a record of the department is confidential
3 if the person requests the confidentiality of that information:
- 4 (1) Attorney General.
 - 5 (2) State Public Defender.
 - 6 (3) A Member of the Legislature.
 - 7 (4) A judge or court commissioner.
 - 8 (5) A district attorney.
 - 9 (6) A public defender.
 - 10 (7) An attorney employed by the Department of Justice, the
11 office of the State Public Defender, or a county office of the district
12 attorney or public defender.
 - 13 (8) A city attorney and an attorney who submits verification
14 from his or her public employer that the attorney represents the
15 city in matters that routinely place the attorney in personal contact
16 with persons under investigation for, charged with, or convicted
17 of, committing criminal acts, if that attorney is employed by a city
18 attorney.
 - 19 (9) A nonsworn police dispatcher.
 - 20 (10) A child abuse investigator or social worker, working in
21 child protective services within a social services department.
 - 22 (11) An active or retired peace officer, as defined in Chapter
23 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal
24 Code.
 - 25 (12) An employee of the Department of Corrections and
26 Rehabilitation, Division of Juvenile Facilities, or the Prison
27 Industry Authority specified in Sections 20403 and 20405 of the
28 Government Code.
 - 29 (13) A nonsworn employee of a city police department, a county
30 sheriff's office, the Department of the California Highway Patrol,
31 a federal, state, or local detention facility, or a local juvenile hall,
32 camp, ranch, or home, who submits agency verification that, in
33 the normal course of his or her employment, he or she controls or
34 supervises inmates or is required to have a prisoner in his or her
35 care or custody.
 - 36 (14) A county counsel assigned to child abuse cases.
 - 37 (15) An investigator employed by the Department of Justice, a
38 county district attorney, or a county public defender.
 - 39 (16) A member of a city council.
 - 40 (17) A member of a board of supervisors.

1 (18) A federal prosecutor, criminal investigator, or National
2 Park Service Ranger working in this state.

3 (19) An active or retired city enforcement officer engaged in
4 the enforcement of the Vehicle Code or municipal parking
5 ordinances.

6 (20) An employee of a trial court.

7 (21) A psychiatric social worker employed by a county.

8 (22) A police or sheriff department employee designated by the
9 Chief of Police of the department or the sheriff of the county as
10 being in a sensitive position. A designation pursuant to this
11 paragraph shall, for purposes of this section, remain in effect for
12 three years subject to additional designations that, for purposes of
13 this section, shall remain in effect for additional three-year periods.

14 (23) A state employee in one of the following classifications:

15 (A) Licensing Registration Examiner, Department of Motor
16 Vehicles.

17 (B) Motor Carrier Specialist 1, Department of the California
18 Highway Patrol.

19 (C) Museum Security Officer and Supervising Museum Security
20 Officer.

21 (24) (A) The spouse or child of a person listed in paragraphs
22 (1) to (23), inclusive, regardless of the spouse's or child's place
23 of residence.

24 (B) The surviving spouse or child of a peace officer, as defined
25 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
26 2 of the Penal Code, if the peace officer died in the line of duty.

27 (b) The confidential home address of a person listed in
28 subdivision (a) shall not be disclosed, except to any of the
29 following:

30 (1) A court.

31 (2) A law enforcement agency.

32 (3) The State Board of Equalization.

33 (4) An attorney in a civil or criminal action that demonstrates
34 to a court the need for the home address, if the disclosure is made
35 pursuant to a subpoena.

36 (5) A governmental agency to which, under any provision of
37 law, information is required to be furnished from records
38 maintained by the department.

39 (c) (1) A record of the department containing a confidential
40 home address shall be open to public inspection, as provided in

1 Section 1808, if the address is completely obliterated or otherwise
2 removed from the record.

3 (2) Following termination of office or employment, a
4 confidential home address shall be withheld from public inspection
5 for three years, unless the termination is the result of conviction
6 of a criminal offense. If the termination or separation is the result
7 of the filing of a criminal complaint, a confidential home address
8 shall be withheld from public inspection during the time in which
9 the terminated individual may file an appeal from termination,
10 while an appeal from termination is ongoing, and until the appeal
11 process is exhausted, after which confidentiality shall be at the
12 discretion of the employing agency if the termination or separation
13 is upheld. Upon reinstatement to an office or employment, the
14 protections of this section are available.

15 (3) With respect to a retired peace officer, his or her home
16 address shall be withheld from public inspection permanently upon
17 request of confidentiality at the time the information would
18 otherwise be opened. The home address of the surviving spouse
19 or child listed in subparagraph (B) of paragraph (24) of subdivision
20 (a) shall be withheld from public inspection for three years
21 following the death of the peace officer.

22 (4) The department shall inform a person who requests a
23 confidential home address what agency the individual whose
24 address was requested is employed by or the court at which the
25 judge or court commissioner presides.

26 (d) A violation of subdivision (a) by the disclosure of the
27 confidential home address of a peace officer, as specified in
28 paragraph (11) of subdivision (a), a nonsworn employee of the
29 city police department or county sheriff's office, or the spouses or
30 children of these persons, including, but not limited to, the
31 surviving spouse or child listed in subparagraph (B) of paragraph
32 (24) of subdivision (a), that results in bodily injury to the peace
33 officer, employee of the city police department or county sheriff's
34 office, or the spouses or children of these persons is a felony.

35 SEC. 179. Section 4156 of the Vehicle Code is amended to
36 read:

37 4156. (a) Notwithstanding any other provision of this code,
38 and except as provided in subdivision (b), the department in its
39 discretion may issue a temporary permit to operate a vehicle when
40 a payment of fees has been accepted in an amount to be determined

1 by, and paid to the department, by the owner or other person in
2 lawful possession of the vehicle. The permit shall be subject to the
3 terms and conditions, and shall be valid for the period of time, that
4 the department shall deem appropriate under the circumstances.

5 (b) (1) The department shall not issue a temporary permit
6 pursuant to subdivision (a) to operate a vehicle for which a
7 certificate of compliance is required pursuant to Section 4000.3,
8 and for which that certificate of compliance has not been issued,
9 unless the department is presented with sufficient evidence, as
10 determined by the department, that the vehicle has failed its most
11 recent smog check inspection.

12 (2) Not more than one temporary permit may be issued pursuant
13 to this subdivision to a vehicle owner in a two-year period.

14 (3) A temporary permit issued pursuant to paragraph (1) is valid
15 for either 60 days after the expiration of the registration of the
16 vehicle or 60 days after the date that vehicle is removed from
17 nonoperation, whichever is applicable at the time that the temporary
18 permit is issued.

19 (4) A temporary permit issued pursuant to paragraph (1) is
20 subject to Section 9257.5.

21 SEC. 180. Section 22651 of the Vehicle Code is amended to
22 read:

23 22651. A peace officer, as defined in Chapter 4.5 (commencing
24 with Section 830) of Title 3 of Part 2 of the Penal Code, or a
25 regularly employed and salaried employee, who is engaged in
26 directing traffic or enforcing parking laws and regulations, of a
27 city, county, or jurisdiction of a state agency in which a vehicle is
28 located, may remove a vehicle located within the territorial limits
29 in which the officer or employee may act, under the following
30 circumstances:

31 (a) When a vehicle is left unattended upon a bridge, viaduct, or
32 causeway or in a tube or tunnel where the vehicle constitutes an
33 obstruction to traffic.

34 (b) When a vehicle is parked or left standing upon a highway
35 in a position so as to obstruct the normal movement of traffic or
36 in a condition so as to create a hazard to other traffic upon the
37 highway.

38 (c) When a vehicle is found upon a highway or public land and
39 a report has previously been made that the vehicle is stolen or a

1 complaint has been filed and a warrant thereon is issued charging
2 that the vehicle was embezzled.

3 (d) When a vehicle is illegally parked so as to block the entrance
4 to a private driveway and it is impractical to move the vehicle from
5 in front of the driveway to another point on the highway.

6 (e) When a vehicle is illegally parked so as to prevent access
7 by firefighting equipment to a fire hydrant and it is impracticable
8 to move the vehicle from in front of the fire hydrant to another
9 point on the highway.

10 (f) When a vehicle, except highway maintenance or construction
11 equipment, is stopped, parked, or left standing for more than four
12 hours upon the right-of-way of a freeway that has full control of
13 access and no crossings at grade and the driver, if present, cannot
14 move the vehicle under its own power.

15 (g) When the person in charge of a vehicle upon a highway or
16 public land is, by reason of physical injuries or illness,
17 incapacitated to an extent so as to be unable to provide for its
18 custody or removal.

19 (h) (1) When an officer arrests a person driving or in control
20 of a vehicle for an alleged offense and the officer is, by this code
21 or other law, required or permitted to take, and does take, the
22 person into custody.

23 (2) When an officer serves a notice of an order of suspension
24 or revocation pursuant to Section 13388 or 13389.

25 (i) (1) When a vehicle, other than a rented vehicle, is found
26 upon a highway or public land, or is removed pursuant to this code,
27 and it is known that the vehicle has been issued five or more notices
28 of parking violations to which the owner or person in control of
29 the vehicle has not responded within 21 calendar days of notice
30 of citation issuance or citation issuance or 14 calendar days of the
31 mailing of a notice of delinquent parking violation to the agency
32 responsible for processing notices of parking violations, or the
33 registered owner of the vehicle is known to have been issued five
34 or more notices for failure to pay or failure to appear in court for
35 traffic violations for which a certificate has not been issued by the
36 magistrate or clerk of the court hearing the case showing that the
37 case has been adjudicated or concerning which the registered
38 owner's record has not been cleared pursuant to Chapter 6
39 (commencing with Section 41500) of Division 17, the vehicle may

1 be impounded until that person furnishes to the impounding law
2 enforcement agency all of the following:

3 (A) Evidence of his or her identity.

4 (B) An address within this state at which he or she can be
5 located.

6 (C) Satisfactory evidence that all parking penalties due for the
7 vehicle and all other vehicles registered to the registered owner of
8 the impounded vehicle, and all traffic violations of the registered
9 owner, have been cleared.

10 (2) The requirements in subparagraph (C) of paragraph (1) shall
11 be fully enforced by the impounding law enforcement agency on
12 and after the time that the Department of Motor Vehicles is able
13 to provide access to the necessary records.

14 (3) A notice of parking violation issued for an unlawfully parked
15 vehicle shall be accompanied by a warning that repeated violations
16 may result in the impounding of the vehicle. In lieu of furnishing
17 satisfactory evidence that the full amount of parking penalties or
18 bail has been deposited, that person may demand to be taken
19 without unnecessary delay before a magistrate, for traffic offenses,
20 or a hearing examiner, for parking offenses, within the county in
21 which the offenses charged are alleged to have been committed
22 and who has jurisdiction of the offenses and is nearest or most
23 accessible with reference to the place where the vehicle is
24 impounded. Evidence of current registration shall be produced
25 after a vehicle has been impounded, or, at the discretion of the
26 impounding law enforcement agency, a notice to appear for
27 violation of subdivision (a) of Section 4000 shall be issued to that
28 person.

29 (4) A vehicle shall be released to the legal owner, as defined in
30 Section 370, if the legal owner does all of the following:

31 (A) Pays the cost of towing and storing the vehicle.

32 (B) Submits evidence of payment of fees as provided in Section
33 9561.

34 (C) Completes an affidavit in a form acceptable to the
35 impounding law enforcement agency stating that the vehicle was
36 not in possession of the legal owner at the time of occurrence of
37 the offenses relating to standing or parking. A vehicle released to
38 a legal owner under this subdivision is a repossessed vehicle for
39 purposes of disposition or sale. The impounding agency shall have
40 a lien on any surplus that remains upon sale of the vehicle to which

1 the registered owner is or may be entitled, as security for the full
2 amount of the parking penalties for all notices of parking violations
3 issued for the vehicle and for all local administrative charges
4 imposed pursuant to Section 22850.5. The legal owner shall
5 promptly remit to, and deposit with, the agency responsible for
6 processing notices of parking violations from that surplus, on
7 receipt of that surplus, the full amount of the parking penalties for
8 all notices of parking violations issued for the vehicle and for all
9 local administrative charges imposed pursuant to Section 22850.5.

10 (5) The impounding agency that has a lien on the surplus that
11 remains upon the sale of a vehicle to which a registered owner is
12 entitled pursuant to paragraph (4) has a deficiency claim against
13 the registered owner for the full amount of the parking penalties
14 for all notices of parking violations issued for the vehicle and for
15 all local administrative charges imposed pursuant to Section
16 22850.5, less the amount received from the sale of the vehicle.

17 (j) When a vehicle is found illegally parked and there are no
18 license plates or other evidence of registration displayed, the
19 vehicle may be impounded until the owner or person in control of
20 the vehicle furnishes the impounding law enforcement agency
21 evidence of his or her identity and an address within this state at
22 which he or she can be located.

23 (k) When a vehicle is parked or left standing upon a highway
24 for 72 or more consecutive hours in violation of a local ordinance
25 authorizing removal.

26 (l) When a vehicle is illegally parked on a highway in violation
27 of a local ordinance forbidding standing or parking and the use of
28 a highway, or a portion thereof, is necessary for the cleaning,
29 repair, or construction of the highway, or for the installation of
30 underground utilities, and signs giving notice that the vehicle may
31 be removed are erected or placed at least 24 hours prior to the
32 removal by a local authority pursuant to the ordinance.

33 (m) Wherever the use of the highway, or a portion of the
34 highway, is authorized by a local authority for a purpose other
35 than the normal flow of traffic or for the movement of equipment,
36 articles, or structures of unusual size, and the parking of a vehicle
37 would prohibit or interfere with that use or movement, and signs
38 giving notice that the vehicle may be removed are erected or placed
39 at least 24 hours prior to the removal by a local authority pursuant
40 to the ordinance.

1 (n) Whenever a vehicle is parked or left standing where local
2 authorities, by resolution or ordinance, have prohibited parking
3 and have authorized the removal of vehicles. A vehicle shall not
4 be removed unless signs are posted giving notice of the removal.

5 (o) (1) When a vehicle is found or operated upon a highway,
6 public land, or an offstreet parking facility under the following
7 circumstances:

8 (A) With a registration expiration date in excess of six months
9 before the date it is found or operated on the highway, public lands,
10 or the offstreet parking facility.

11 (B) Displaying in, or upon, the vehicle, a registration card,
12 identification card, temporary receipt, license plate, special plate,
13 registration sticker, device issued pursuant to Section 4853, or
14 permit that was not issued for that vehicle, or is not otherwise
15 lawfully used on that vehicle under this code.

16 (C) Displaying in, or upon, the vehicle, an altered, forged,
17 counterfeit, or falsified registration card, identification card,
18 temporary receipt, license plate, special plate, registration sticker,
19 device issued pursuant to Section 4853, or permit.

20 (2) When a vehicle described in paragraph (1) is occupied, only
21 a peace officer, as defined in Chapter 4.5 (commencing with
22 Section 830) of Title 3 of Part 2 of the Penal Code, may remove
23 the vehicle.

24 (3) For the purposes of this subdivision, the vehicle shall be
25 released to the owner or person in control of the vehicle only after
26 the owner or person furnishes the storing law enforcement agency
27 with proof of current registration and a currently valid driver's
28 license to operate the vehicle.

29 (4) As used in this subdivision, "offstreet parking facility" means
30 an offstreet facility held open for use by the public for parking
31 vehicles and includes a publicly owned facility for offstreet
32 parking, and a privately owned facility for offstreet parking if a
33 fee is not charged for the privilege to park and it is held open for
34 the common public use of retail customers.

35 (p) When the peace officer issues the driver of a vehicle a notice
36 to appear for a violation of Section 12500, 14601, 14601.1,
37 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is
38 not impounded pursuant to Section 22655.5. A vehicle so removed
39 from the highway or public land, or from private property after
40 having been on a highway or public land, shall not be released to

1 the registered owner or his or her agent, except upon presentation
2 of the registered owner's or his or her agent's currently valid
3 driver's license to operate the vehicle and proof of current vehicle
4 registration, or upon order of a court.

5 (q) Whenever a vehicle is parked for more than 24 hours on a
6 portion of highway that is located within the boundaries of a
7 common interest development, as defined in subdivision (c) of
8 Section 1351 of the Civil Code, and signs, as required by paragraph
9 (1) of subdivision (a) of Section 22658 of this code, have been
10 posted on that portion of highway providing notice to drivers that
11 vehicles parked thereon for more than 24 hours will be removed
12 at the owner's expense, pursuant to a resolution or ordinance
13 adopted by the local authority.

14 (r) When a vehicle is illegally parked and blocks the movement
15 of a legally parked vehicle.

16 (s) (1) When a vehicle, except highway maintenance or
17 construction equipment, an authorized emergency vehicle, or a
18 vehicle that is properly permitted or otherwise authorized by the
19 Department of Transportation, is stopped, parked, or left standing
20 for more than eight hours within a roadside rest area or viewpoint.

21 (2) Notwithstanding paragraph (1), when a commercial motor
22 vehicle, as defined in paragraph (1) of subdivision (b) of Section
23 15210, is stopped, parked, or left standing for more than 10 hours
24 within a roadside rest area or viewpoint.

25 (3) For purposes of this subdivision, a roadside rest area or
26 viewpoint is a publicly maintained vehicle parking area, adjacent
27 to a highway, utilized for the convenient, safe stopping of a vehicle
28 to enable motorists to rest or to view the scenery. If two or more
29 roadside rest areas are located on opposite sides of the highway,
30 or upon the center divider, within seven miles of each other, then
31 that combination of rest areas is considered to be the same rest
32 area.

33 (t) When a peace officer issues a notice to appear for a violation
34 of Section 25279.

35 (u) When a peace officer issues a citation for a violation of
36 Section 11700 and the vehicle is being offered for sale.

37 SEC. 181. Section 26708 of the Vehicle Code is amended to
38 read:

1 26708. (a) (1) A person shall not drive any motor vehicle with
2 any object or material placed, displayed, installed, affixed, or
3 applied upon the windshield or side or rear windows.

4 (2) A person shall not drive any motor vehicle with any object
5 or material placed, displayed, installed, affixed, or applied in or
6 upon the vehicle that obstructs or reduces the driver's clear view
7 through the windshield or side windows.

8 (3) This subdivision applies to a person driving a motor vehicle
9 with the driver's clear vision through the windshield, or side or
10 rear windows, obstructed by snow or ice.

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

12 (1) Rearview mirrors.

13 (2) Adjustable nontransparent sunvisors that are mounted
14 forward of the side windows and are not attached to the glass.

15 (3) Signs, stickers, or other materials that are displayed in a
16 7-inch square in the lower corner of the windshield farthest
17 removed from the driver, signs, stickers, or other materials that
18 are displayed in a 7-inch square in the lower corner of the rear
19 window farthest removed from the driver, or signs, stickers, or
20 other materials that are displayed in a 5-inch square in the lower
21 corner of the windshield nearest the driver.

22 (4) Side windows that are to the rear of the driver.

23 (5) Direction, destination, or terminus signs upon a passenger
24 common carrier motor vehicle or a schoolbus, if those signs do
25 not interfere with the driver's clear view of approaching traffic.

26 (6) Rear window wiper motor.

27 (7) Rear trunk lid handle or hinges.

28 (8) The rear window or windows, if the motor vehicle is
29 equipped with outside mirrors on both the left- and right-hand
30 sides of the vehicle that are so located as to reflect to the driver a
31 view of the highway through each mirror for a distance of at least
32 200 feet to the rear of the vehicle.

33 (9) A clear, transparent lens affixed to the side window opposite
34 the driver on a vehicle greater than 80 inches in width and that
35 occupies an area not exceeding 50 square inches of the lowest
36 corner toward the rear of that window and that provides the driver
37 with a wide-angle view through the lens.

38 (10) Sun screening devices meeting the requirements of Section
39 26708.2 installed on the side windows on either side of the
40 vehicle's front seat, if the driver or a passenger in the front seat

1 has in his or her possession a letter or other document signed by
2 a licensed physician and surgeon certifying that the person must
3 be shaded from the sun due to a medical condition, or has in his
4 or her possession a letter or other document signed by a licensed
5 optometrist certifying that the person must be shaded from the sun
6 due to a visual condition. The devices authorized by this paragraph
7 shall not be used during darkness.

8 (11) An electronic communication device affixed to the center
9 uppermost portion of the interior of a windshield within an area
10 that is not greater than 5 inches square, if the device provides either
11 of the following:

12 (A) The capability for enforcement facilities of the Department
13 of the California Highway Patrol to communicate with a vehicle
14 equipped with the device.

15 (B) The capability for electronic toll and traffic management
16 on public or private roads or facilities.

17 (12) A portable Global Positioning System (GPS), which may
18 be mounted in a 7-inch square in the lower corner of the windshield
19 farthest removed from the driver or in a 5-inch square in the lower
20 corner of the windshield nearest to the driver and outside of an
21 airbag deployment zone, if the system is used only for door-to-door
22 navigation while the motor vehicle is being operated.

23 (c) Notwithstanding subdivision (a), transparent material may
24 be installed, affixed, or applied to the topmost portion of the
25 windshield if the following conditions apply:

26 (1) The bottom edge of the material is at least 29 inches above
27 the undepressed driver's seat when measured from a point 5 inches
28 in front of the bottom of the backrest with the driver's seat in its
29 rearmost and lowermost position with the vehicle on a level
30 surface.

31 (2) The material is not red or amber in color.

32 (3) There is no opaque lettering on the material and any other
33 lettering does not affect primary colors or distort vision through
34 the windshield.

35 (4) The material does not reflect sunlight or headlight glare into
36 the eyes of occupants of oncoming or following vehicles to any
37 greater extent than the windshield without the material.

38 (d) Notwithstanding subdivision (a), clear, colorless, and
39 transparent material may be installed, affixed, or applied to the

1 front side windows, located to the immediate left and right of the
2 front seat if the following conditions are met:

3 (1) The material has a minimum visible light transmittance of
4 88 percent.

5 (2) The window glazing with the material applied meets all
6 requirements of Federal Motor Vehicle Safety Standard No. 205
7 (49 C.F.R. 571.205), including the specified minimum light
8 transmittance of 70 percent and the abrasion resistance of AS-14
9 glazing, as specified in that federal standard.

10 (3) The material is designed and manufactured to enhance the
11 ability of the existing window glass to block the sun's harmful
12 ultraviolet A rays.

13 (4) The driver has in his or her possession, or within the vehicle,
14 a certificate signed by the installing company certifying that the
15 windows with the material installed meet the requirements of this
16 subdivision and the certificate identifies the installing company
17 and the material's manufacturer by full name and street address,
18 or, if the material was installed by the vehicle owner, a certificate
19 signed by the material's manufacturer certifying that the windows
20 with the material installed according to manufacturer's instructions
21 meet the requirements of this subdivision and the certificate
22 identifies the material's manufacturer by full name and street
23 address.

24 (5) If the material described in this subdivision tears or bubbles,
25 or is otherwise worn to prohibit clear vision, it shall be removed
26 or replaced.

27 SEC. 182. Section 35521 of the Water Code is amended to
28 read:

29 35521. (a) Notwithstanding any other provision of law, the
30 Hot Spring Valley Irrigation District in the County of Modoc is
31 dissolved, and the Hot Spring Valley Water District is hereby
32 formed in that county.

33 (b) The Hot Spring Valley Water District is declared to be, and
34 shall be deemed, a water district as if the district had been formed
35 pursuant to this division. The exterior boundary of the Hot Spring
36 Valley Water District shall be the exterior boundary of the former
37 Hot Spring Valley Irrigation District.

38 (c) The Hot Spring Valley Water District succeeds to, and is
39 vested with, all of the powers, duties, responsibilities, obligations,

1 liabilities, and jurisdiction of the former Hot Spring Valley
2 Irrigation District.

3 (d) The status, position, and rights of any officer or employee
4 of the former Hot Spring Valley Irrigation District shall not be
5 affected by the transfer and shall be retained by the person as an
6 officer or employee of the Hot Spring Valley Water District.

7 (e) The Hot Spring Valley Water District shall have ownership,
8 possession, and control of all of the books, records, papers, offices,
9 equipment, supplies, moneys, funds, appropriations, licenses,
10 permits, entitlements, agreements, contracts, claims, judgments,
11 land, and other assets and property, real or personal, owned or
12 leased by, connected with the administration of, or held for the
13 benefit or use of the former Hot Spring Valley Irrigation District.

14 (f) The unexpended balance of any funds available for use by
15 the former Hot Spring Valley Irrigation District shall be available
16 for use by the Hot Spring Valley Water District.

17 (g) No payment for the use, or right of use, of any property, real
18 or personal, acquired or constructed by the former Hot Spring
19 Valley Irrigation District shall be required by reason of the
20 succession pursuant to this act, nor shall any payment for the Hot
21 Spring Valley Water District's acquisition of the powers, duties,
22 responsibilities, obligations, liabilities, and jurisdiction be required
23 by reason of that succession.

24 (h) All ordinances, rules, and regulations adopted by the former
25 Hot Spring Valley Irrigation District in effect immediately
26 preceding January 1, 2009, shall remain in effect and shall be fully
27 enforceable unless readopted, amended, or repealed by the Hot
28 Spring Valley Water District, or until they expire by their own
29 terms. Any statute, law, rule, or regulation now in force, or that
30 may hereafter be enacted or adopted with reference to the former
31 Hot Spring Valley Irrigation District, shall mean the Hot Spring
32 Valley Water District.

33 (i) Any action by or against the former Hot Spring Valley
34 Irrigation District shall not abate, but shall continue in the name
35 of the Hot Spring Valley Water District, and the Hot Spring Valley
36 Water District shall be substituted for the former Hot Spring Valley
37 Irrigation District by the court in which the action is pending. The
38 substitution shall not in any way affect the rights of the parties to
39 the action.

1 (j) No contract, lease, license, permit, entitlement, bond, or any
2 other agreement to which the former Hot Spring Valley Irrigation
3 District is a party shall be void or voidable by reason of this act,
4 but shall continue in effect, with the Hot Spring Valley Water
5 District assuming all of the rights, obligations, liabilities, and duties
6 of the former Hot Spring Valley Irrigation District. Bonds issued
7 by the former Hot Spring Valley Irrigation District shall become
8 the indebtedness of the Hot Spring Valley Water District. Any
9 continuing obligations or responsibilities of the former Hot Spring
10 Valley Irrigation District for managing and maintaining bond
11 issuances shall be transferred to the Hot Spring Valley Water
12 District without impairment to any security contained in the bond
13 instrument.

14 (k) (1) Notwithstanding Section 35003, each voter, as defined
15 by Section 34027, of the Hot Spring Valley Water District shall
16 be entitled to cast only one vote, regardless of the value, acreage,
17 or number of parcels of the voter's land within the district.

18 (2) Voting in the Hot Spring Valley Water District shall be by
19 electoral divisions in accordance with Article 2 (commencing with
20 Section 35025) of Chapter 1 of Part 4. The Hot Spring Valley
21 Water District shall be divided into the same electoral divisions,
22 with the same division boundaries, as those established within the
23 former Hot Spring Valley Irrigation District. Members of the
24 former Hot Spring Valley Irrigation District Board of Directors
25 who are serving on January 1, 2009, may continue to serve the
26 balance of their current terms of office, representing the same
27 electoral divisions, as members of the Board of Directors of the
28 Hot Spring Valley Water District.

29 SEC. 183. Section 79441 of the Water Code is amended to
30 read:

31 79441. (a) The department, the Department of Fish and Game,
32 and the United States Army Corps of Engineers are the
33 implementing agencies for the levee program element.

34 (b) The state board, the United States Environmental Protection
35 Agency, and the State Department of Public Health are the
36 implementing agencies for the water quality program element.

37 (c) The Department of Fish and Game, the United States Fish
38 and Wildlife Service, and the United States National Marine
39 Fisheries Service are the implementing agencies for the ecosystem
40 restoration program element. If interests in land, water, or other

1 real property are acquired, those interests shall be acquired from
 2 willing sellers by means of entering into voluntary agreements.

3 (d) The department and the United States Bureau of Reclamation
 4 are the implementing agencies for the water supply reliability,
 5 storage, and conveyance elements of the program.

6 (e) The department, the state board, and the United States Bureau
 7 of Reclamation are the implementing agencies for the water use
 8 efficiency and water transfer program elements.

9 (f) The Natural Resources Agency, the state board, the
 10 department, the Department of Fish and Game, the Department of
 11 Conservation, the United States Natural Resources Conservation
 12 Service, the United States Environmental Protection Agency, and
 13 the United States Fish and Wildlife Service are the implementing
 14 agencies for the watershed program element.

15 (g) The Natural Resources Agency is the implementing agency
 16 for the science program element.

17 (h) The department, the Department of Fish and Game, the
 18 United States Bureau of Reclamation, the United States Fish and
 19 Wildlife Service, and the United States National Marine Fisheries
 20 Service are the implementing agencies for the environmental water
 21 account program element.

22 SEC. 184. Section 83002 of the Water Code is amended to
 23 read:

24 83002. The sum of eight hundred twenty million nine hundred
 25 seventy-three thousand dollars (\$820,973,000) is hereby
 26 appropriated in accordance with the following schedule:

27 (a) Of the funds made available pursuant to Chapter 1.699
 28 (commencing with Section 5096.800) of Division 5 of the Public
 29 Resources Code, the sum of two hundred eighty-five million dollars
 30 (\$285,000,000) is hereby appropriated as follows:

31 (1) Pursuant to subdivision (c) of Section 5096.821 of the Public
 32 Resources Code, the sum of one hundred thirty-five million dollars
 33 (\$135,000,000) to the department for the acquisition, design, and
 34 construction of essential emergency preparedness supplies and
 35 projects. Prior to the design or construction of any project funded
 36 pursuant to this paragraph, the California Bay-Delta Authority, or
 37 its successor, shall approve the specific project or program.
 38 Preference shall be given to projects that protect and improve Delta
 39 water quality and drinking water supplies. Of the amount made
 40 available pursuant to this paragraph, not less than thirty-five million

1 dollars (\$35,000,000) shall be expended by the department for
2 projects to reinforce those sections of the levees that have the
3 highest potential to suffer breaches or failure and cause harm to
4 municipal and industrial water supply aqueducts that cross the
5 Delta and which are vulnerable to flood damage, including the
6 installation of scour protection on the supports of the aqueducts
7 in those areas located adjacent to the sections of the levees that
8 have been identified as the highest risk of breaches or failure.

9 (2) Pursuant to Section 5096.827 of the Public Resources Code,
10 the sum of one hundred fifty million dollars (\$150,000,000) to the
11 department for grants for stormwater flood management projects
12 that reduce flood damage and provide other benefits, including
13 groundwater recharge, water quality improvement, and ecosystem
14 restoration. Not less than one hundred million dollars
15 (\$100,000,000) of this amount shall be available for projects that
16 address immediate public health and safety needs and strengthen
17 existing flood control facilities to address seismic safety issues.
18 Twenty million dollars (\$20,000,000) shall be available for local
19 agencies to meet immediate water quality needs related to
20 combined municipal sewer and stormwater systems to prevent
21 sewage discharges into state waters. Twenty million dollars
22 (\$20,000,000) shall be available for urban stream stormwater flood
23 management projects to reduce the frequency and impacts of
24 flooding in watersheds that drain to the San Francisco Bay.

25 (b) Of the funds made available pursuant to Division 43
26 (commencing with Section 75001) of the Public Resources Code,
27 the sum of five hundred twenty-six million four hundred ninety-one
28 thousand dollars (\$526,491,000) is hereby appropriated as follows:

29 (1) Pursuant to Section 75022 of the Public Resources Code,
30 the sum of fifty million dollars (\$50,000,000) to the State
31 Department of Public Health for grants for small community
32 drinking water system infrastructure improvements and related
33 action to meet safe drinking water standards. First priority for these
34 funds shall be given to disadvantaged or severely disadvantaged
35 communities lacking resources to provide safe drinking water to
36 residents. Small community drinking water systems that are
37 dependent on surface water and are under orders from the State
38 Department of Public Health to boil water from existing treatment
39 systems for parasites, viruses, or giardia shall be eligible for grants
40 for drinking water system infrastructure improvements.

1 (2) Pursuant to Section 75025 of the Public Resources Code,
2 the sum of fifty million four hundred thousand dollars
3 (\$50,400,000) to the State Department of Public Health for grants
4 for projects to prevent or reduce the contamination of groundwater
5 that serves as a source of drinking water. Funds appropriated by
6 this paragraph shall be available for immediate projects needed to
7 protect public health by preventing or reducing the contamination
8 of groundwater that serves as a major source of drinking water for
9 a community.

10 (A) The State Department of Public Health shall prioritize
11 project funding based on the following criteria:

12 (i) The threat posed by groundwater contamination to the
13 affected community's overall drinking water supplies, including
14 the need for the treatment or construction of alternative supplies
15 if groundwater is not available due to contamination.

16 (ii) The potential for groundwater contamination to spread and
17 reduce drinking water supply and water storage capacity for major
18 population areas.

19 (iii) The potential of the project, if fully implemented, to enhance
20 local water supply reliability.

21 (iv) The potential of the project to increase opportunities for
22 groundwater recharge and optimization of groundwater supplies.

23 (B) The State Department of Public Health shall give additional
24 consideration to projects that meet any of the following criteria:

25 (i) The project is implemented pursuant to a comprehensive
26 basinwide groundwater quality management and remediation plan
27 or is necessary to develop a comprehensive groundwater plan.

28 (ii) Affected groundwater provides a local supply that, if
29 contaminated, will require the importation of additional water from
30 the Sacramento-San Joaquin Delta or the Colorado River.

31 (iii) The project will serve an economically disadvantaged
32 community.

33 (iv) Multiple contaminants affect more than one-third of the
34 well capacity of a local water system.

35 (C) Of the amount made available by this paragraph, up to ten
36 million dollars (\$10,000,000) shall be allocated for projects that
37 meet the criteria of this paragraph and both of the following
38 criteria:

39 (i) The project has the potential to leverage funds.

1 (ii) The project addresses contamination at a site on the list
2 maintained by the Department of Toxic Substances Control
3 pursuant to Section 25356 of the Health and Safety Code or a site
4 listed on the National Priorities List pursuant to the federal
5 Comprehensive Environmental Response, Compensation, and
6 Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

7 (D) Of the funds made available by this paragraph, two million
8 dollars (\$2,000,000) shall be allocated to the State Department of
9 Public Health to contract with the State Water Resources Control
10 Board for the purposes of Section 83002.5.

11 (3) (A) Pursuant to Section 75026 of the Public Resources
12 Code, the sum of one hundred eighty-one million seven hundred
13 ninety-one thousand dollars (\$181,791,000) to the department for
14 integrated regional water management activities as follows:

15 (i) One hundred million dollars (\$100,000,000) for
16 implementation grants.

17 (ii) Thirty-nine million dollars (\$39,000,000) for planning grants,
18 local groundwater assistance grants, and CALFED scientific
19 research grants.

20 (iii) Twenty-two million ninety-one thousand dollars
21 (\$22,091,000) for projects with interregional or statewide benefits.

22 Of the amount made available pursuant to this paragraph, not
23 less than ten million dollars (\$10,000,000) shall be made available
24 for expenditure to interconnect municipal and industrial water
25 supply aqueducts that cross the Delta and that are vulnerable to
26 flood damage, including the design and construction of interties
27 among aqueducts that provide at least 90 percent of a regional
28 water supply that would be threatened in the event of levee failure
29 or other disaster, and that support an integrated regional emergency
30 water supply system.

31 (iv) Twenty million seven hundred thousand dollars
32 (\$20,700,000) for program delivery costs.

33 (B) An implementation grant pursuant to clause (i) of
34 subparagraph (A) shall be available only for projects included in
35 an integrated regional water management plan that meets one of
36 the following conditions:

37 (i) The plan complies with Part 2.2 (commencing with Section
38 10530) of Division 6.

39 (ii) For a plan adopted before the date on which this section is
40 enacted, both of the following apply:

1 (I) The regional water management group that prepared the plan
2 enters into a binding agreement with the department to update the
3 plan to comply with Part 2.2 (commencing with Section 10530)
4 of Division 6 within two years of the date on which the agreement
5 was entered into.

6 (II) The regional water management group undertakes all
7 reasonable and feasible efforts to take into account water-related
8 needs of disadvantaged communities in the area within the
9 boundaries of the plan.

10 (C) Of the funds described in clauses (i) and (ii) of subparagraph
11 (A), the department shall allocate not less than 10 percent to
12 facilitate and support the participation of disadvantaged
13 communities in integrated regional water management planning
14 and for projects that address critical water supply or water quality
15 needs for disadvantaged communities.

16 (D) Of the funds described in clause (iii) of subparagraph (A),
17 the department shall allocate two million dollars (\$2,000,000) to
18 Tulare County for development of an integrated water quality and
19 wastewater treatment program plan to address the drinking water
20 and wastewater needs of disadvantaged communities in the Tulare
21 Lake Basin. Funds allocated pursuant to this paragraph shall be
22 available for assessment and feasibility studies necessary to develop
23 the plan, and the plan shall include recommendations for planning,
24 infrastructure, and other water management actions, and shall
25 include specific recommendations for regional drinking water
26 treatment facilities, regional wastewater treatment facilities,
27 conjunctive use sites and groundwater recharge, groundwater for
28 surface water exchanges, related infrastructure, and cost-sharing
29 mechanisms. Tulare County shall consult with appropriate
30 stakeholders, including representatives of disadvantaged
31 communities, when preparing the plan. The department, in
32 consultation with the State Department of Public Health, shall
33 submit the plan to the Legislature by January 1, 2011.

34 (E) Of the funds described in clause (i) of subparagraph (A),
35 the department shall allocate not less than twenty million dollars
36 (\$20,000,000) to support urban and agricultural water conservation
37 projects necessary to meet a 20-percent reduction in per capita
38 water use by the year 2020.

39 (4) Pursuant to Section 75029 of the Public Resources Code,
40 the sum of ninety million dollars (90,000,000) to the department

1 for the implementation of Delta water quality improvement projects
2 that protect drinking water supplies as follows:

3 (A) Pursuant to subdivision (d) of Section 75029 of the Public
4 Resources Code, the sum of fifty million dollars (\$50,000,000)
5 for drinking water intake facility projects to improve the quality
6 of drinking water supply from the Sacramento-San Joaquin Delta
7 that are identified in the June 2005 Delta Region Drinking Water
8 Quality Management Plan. Funding shall be made available for
9 environmental review, design, and construction. Project proponents
10 seeking funding for construction shall meet all of the following
11 criteria:

12 (i) Have completed documentation required under the California
13 Environmental Quality Act (Division 13 (commencing with Section
14 21000) of the Public Resources Code) and a notice of determination
15 has been filed prior to June 30, 2008.

16 (ii) Have demonstrated multiple benefits in conveyance and
17 Delta operation to achieve protection or improvement to Delta
18 pelagic fisheries, as well as drinking water quality improvement
19 and public health protection.

20 (iii) Are able to complete design and commence construction
21 before June 30, 2009.

22 (iv) Have local or federal cost-sharing funds immediately
23 available.

24 (B) The sum of forty million dollars (\$40,000,000) for projects
25 consistent with subdivision (c) of Section 75029 of the Public
26 Resources Code.

27 (5) Pursuant to Section 75033 of the Public Resources Code,
28 the sum of one hundred million dollars (\$100,000,000) to the
29 department for the acquisition, preservation, protection, and
30 restoration of Sacramento-San Joaquin Delta resources in
31 accordance with Section 75033 of the Public Resources Code. The
32 department shall expend these funds pursuant to priorities that
33 reflect the value of the resources and land uses protected by the
34 levees to the state as a whole, consistent with the Delta Vision
35 Strategic Plan. Projects shall be selected to improve the stability
36 of the Delta levee system, reduce subsidence, and assist in restoring
37 the ecosystem of the Delta. Priority shall be given to projects that
38 improve conditions for Delta smelt and other native fish. Up to
39 five million dollars (\$5,000,000) made available pursuant to this
40 paragraph shall be available as grants and direct expenditures for

1 emergency communications equipment to improve emergency
2 response preparedness.

3 (6) Pursuant to Chapter 4 (commencing with Section 75041) of
4 Division 43 of the Public Resources Code, the sum of thirty-seven
5 million dollars (\$37,000,000) to the department as follows:

6 (A) (i) Twelve million dollars (\$12,000,000) to complete the
7 planning and feasibility studies associated with new surface storage
8 under the California Bay-Delta Program.

9 (ii) The planning and feasibility studies shall include the
10 following information:

11 (I) The identification of specific construction and operation
12 conditions proposed for each surface storage facility, including
13 consideration of climate change, an estimated schedule for the
14 construction and completion of each project funded under Section
15 75041 of the Public Resources Code, and the total costs of
16 constructing each project.

17 (II) A description of the estimated total costs to construct each
18 project and an allocation of the costs to public and private
19 beneficiaries.

20 (iii) Any feasibility study conducted by or funded by the state
21 for new surface storage under the California Bay-Delta Program
22 shall evaluate funded projects consistent with all statutory and
23 other legally established requirements for protection of
24 environmental and natural resources, including protections for the
25 McCloud River pursuant to Section 5093.542 of the Public
26 Resources Code.

27 (iv) The feasibility studies shall be prepared and submitted to
28 the Governor and the Legislature no later than December 31, 2009.

29 (B) (i) Fifteen million dollars (\$15,000,000) for planning and
30 feasibility studies to identify potential options for the reoperation
31 of the state's flood protection and water supply systems that will
32 optimize the use of existing facilities and groundwater storage
33 capacity.

34 (ii) The studies shall incorporate appropriate climate change
35 scenarios and be designed to determine the potential to achieve
36 the following objectives:

37 (I) Integration of flood protection and water supply systems to
38 increase water supply reliability and flood protection, improve
39 water quality, and provide for ecosystem protection and restoration.

1 (II) Reoperation of existing reservoirs, flood facilities, and other
2 water facilities in conjunction with groundwater storage to improve
3 water supply reliability, flood control, and ecosystem protection
4 and to reduce groundwater overdraft.

5 (III) Promotion of more effective groundwater management and
6 protection and greater integration of groundwater and surface water
7 resource uses.

8 (IV) Improvement of existing water conveyance systems to
9 increase water supply reliability, improve water quality, expand
10 flood protection, and protect and restore ecosystems.

11 (C) Ten million dollars (\$10,000,000) to update the California
12 Water Plan, including evaluation of climate change impacts, the
13 development of strategies to adapt to climate change impacts,
14 technical assistance to local agencies that incorporate climate
15 change into their studies, reports, and plans, and the identification
16 of strategies to reduce greenhouse gas emissions related to the
17 storage, conveyance, and distribution of water.

18 (D) Of the money made available pursuant to subparagraphs
19 (A), (B), and (C), up to two million dollars (\$2,000,000) may be
20 expended for planning and feasibility studies necessary to
21 implement the Delta Vision Strategic Plan, developed pursuant to
22 Executive Order No. S-17-06, dated September 28, 2006,
23 establishing the Delta Vision process.

24 (7) Pursuant to Section 75050 of the Public Resources Code,
25 the sum of seventeen million three hundred thousand dollars
26 (\$17,300,000) for the protection and restoration of rivers and
27 streams as follows:

28 (A) Ten million dollars (\$10,000,000) to the State Coastal
29 Conservancy for the purposes of subdivision (i) of Section 75050
30 of the Public Resources Code.

31 (B) Seven million three hundred thousand dollars (\$7,300,000)
32 to the department for the purposes of subdivision (e) of Section
33 75050 of the Public Resources Code.

34 (c) Of the funds made available pursuant to subdivision (a) of
35 Section 79550, the sum of three million seven hundred sixty
36 thousand dollars (\$3,760,000) is hereby appropriated to the
37 department for planning and feasibility studies associated with
38 surface storage under the California Bay-Delta Program.

39 (d) (1) Of the funds available pursuant to Section 79101, the
40 sum of two million two hundred seventy-two thousand dollars

1 (\$2,272,000) is appropriated to the department for the Sacramento
2 River Hamilton City Area Flood Damage Reduction Project.

3 (2) Of the funds available pursuant to subdivision (c) of Section
4 79196.5, the sum of three million four hundred fifty thousand
5 dollars (\$3,450,000) is appropriated to the department for the
6 Franks Tract Pilot Project under the CALFED Drinking Water
7 Quality Program.

8 SEC. 185. Section 223.1 of the Welfare and Institutions Code
9 is amended to read:

10 223.1. (a) (1) At least one individual who is a parent, guardian,
11 or designated emergency contact of a person in the custody of the
12 Division of Juvenile Facilities, if the individual can reasonably be
13 located, shall be successfully notified within 24 hours by the public
14 officer responsible for the well-being of that person, of any suicide
15 attempt by the person, or any serious injury or serious offense
16 committed against the person. In consultation with division staff,
17 as appropriate, and with concurrence of the public officer
18 responsible for the well-being of that person, the person may
19 designate other persons who should be notified in addition to, or
20 in lieu of, parents or guardians, of any suicide attempt by the
21 person, or any serious injury or serious offense committed against
22 the person.

23 (2) This section shall not apply if either of the following
24 conditions is met:

25 (A) A minor requests that his or her parents, guardians, or other
26 persons not be notified, and the director of the division facility, as
27 appropriate, determines it would be in the best interest of the minor
28 not to notify the parents, guardians, or other persons.

29 (B) A person 18 years of age or older does not consent to the
30 notification.

31 (b) Upon intake of a person into a division facility, and again
32 upon attaining 18 years of age while in the custody of the division,
33 an appropriate staff person shall explain, using language clearly
34 understandable to the person, all of the provisions of this section,
35 including that the person has the right to (1) request that the
36 information described in paragraph (1) of subdivision (a) not be
37 provided to a parent or guardian, and (2) request that another person
38 or persons in addition to, or in lieu of, a parent or guardian be
39 notified. The division shall provide the person with forms and any
40 information necessary to provide informed consent as to who shall

1 be notified. Any designation made pursuant to paragraph (1) of
2 subdivision (a), the consent to notify parents, guardians, or other
3 persons, and the withholding of that consent, may be amended or
4 revoked by the person, and shall be transferable among facilities.

5 (c) Staff of the division shall enter the following information
6 into the ward's record, as appropriate, upon its occurrence:

7 (1) A minor's request that his or her parents, guardians, or other
8 persons not be notified of an emergency pursuant to this section,
9 and the determination of the relevant public officer on that request.

10 (2) The designation of persons who are emergency contacts, in
11 lieu of parents or guardians, who may be notified pursuant to this
12 section.

13 (3) The revocation or amendment of a designation or consent
14 made pursuant to this section.

15 (4) A person's consent, or withholding thereof, to notify parents,
16 guardians, or other persons pursuant to this section.

17 (d) For purposes of this section, the following terms have the
18 following meanings:

19 (1) "Serious offense" means any offense that is chargeable as
20 a felony and that involves violence against another person.

21 (2) "Serious injury" means any illness or injury that requires
22 hospitalization, requires an evaluation for involuntary treatment
23 for a mental health disorder or grave disability under the
24 Lanterman-Petris-Short Act (Part 1 (commencing with Section
25 5000) of Division 5), is potentially life threatening, or that
26 potentially will permanently impair the use of a major body organ,
27 appendage, or limb.

28 (3) "Suicide attempt" means a self-inflicted destructive act
29 committed with explicit or inferred intent to die.

30 SEC. 186. Section 241.1 of the Welfare and Institutions Code
31 is amended to read:

32 241.1. (a) Whenever a minor appears to come within the
33 description of both Section 300 and Section 601 or 602, the county
34 probation department and the child welfare services department
35 shall, pursuant to a jointly developed written protocol described
36 in subdivision (b), initially determine which status will serve the
37 best interests of the minor and the protection of society. The
38 recommendations of both departments shall be presented to the
39 juvenile court with the petition that is filed on behalf of the minor,
40 and the court shall determine which status is appropriate for the

1 minor. Any other juvenile court having jurisdiction over the minor
2 shall receive notice from the court, within five calendar days, of
3 the presentation of the recommendations of the departments. The
4 notice shall include the name of the judge to whom, or the
5 courtroom to which, the recommendations were presented.

6 (b) The probation department and the child welfare services
7 department in each county shall jointly develop a written protocol
8 to ensure appropriate local coordination in the assessment of a
9 minor described in subdivision (a), and the development of
10 recommendations by these departments for consideration by the
11 juvenile court. These protocols shall require, but not be limited to,
12 consideration of the nature of the referral, the age of the minor,
13 the prior record of the minor's parents for child abuse, the prior
14 record of the minor for out-of-control or delinquent behavior, the
15 parents' cooperation with the minor's school, the minor's
16 functioning at school, the nature of the minor's home environment,
17 and the records of other agencies that have been involved with the
18 minor and his or her family. The protocols also shall contain
19 provisions for resolution of disagreements between the probation
20 and child welfare services departments regarding the need for
21 dependency or ward status and provisions for determining the
22 circumstances under which a new petition should be filed to change
23 the minor's status.

24 (c) Whenever a minor who is under the jurisdiction of the
25 juvenile court of a county pursuant to Section 300, 601, or 602 is
26 alleged to come within the description of Section 300, 601, or 602
27 by another county, the county probation department or child
28 welfare services department in the county that has jurisdiction
29 under Section 300, 601, or 602 and the county probation
30 department or child welfare services department of the county
31 alleging the minor to be within one of those sections shall initially
32 determine which status will best serve the best interests of the
33 minor and the protection of society. The recommendations of both
34 departments shall be presented to the juvenile court in which the
35 petition is filed on behalf of the minor, and the court shall
36 determine which status is appropriate for the minor. In making
37 their recommendation to the juvenile court, the departments shall
38 conduct an assessment consistent with the requirements of
39 subdivision (b). Any other juvenile court having jurisdiction over
40 the minor shall receive notice from the court in which the petition

1 is filed within five calendar days of the presentation of the
2 recommendations of the departments. The notice shall include the
3 name of the judge to whom, or the courtroom to which, the
4 recommendations were presented.

5 (d) Except as provided in subdivision (e), nothing in this section
6 shall be construed to authorize the filing of a petition or petitions,
7 or the entry of an order by the juvenile court, to make a minor
8 simultaneously both a dependent child and a ward of the court.

9 (e) Notwithstanding subdivision (d), the probation department
10 and the child welfare services department, in consultation with the
11 presiding judge of the juvenile court, in any county may create a
12 jointly written protocol to allow the county probation department
13 and the child welfare services department to jointly assess and
14 produce a recommendation that the child be designated as a dual
15 status child, allowing the child to be simultaneously a dependent
16 child and a ward of the court. This protocol shall be signed by the
17 chief probation officer, the director of the county social services
18 agency, and the presiding judge of the juvenile court prior to its
19 implementation. No juvenile court may order that a child is
20 simultaneously a dependent child and a ward of the court pursuant
21 to this subdivision unless and until the required protocol has been
22 created and entered into. This protocol shall include all of the
23 following:

24 (1) A description of the process to be used to determine whether
25 the child is eligible to be designated as a dual status child.

26 (2) A description of the procedure by which the probation
27 department and the child welfare services department will assess
28 the necessity for dual status for specified children and the process
29 to make joint recommendations for the court's consideration prior
30 to making a determination under this section. These
31 recommendations shall ensure a seamless transition from wardship
32 to dependency jurisdiction, as appropriate, so that services to the
33 child are not disrupted upon termination of the wardship.

34 (3) A provision for ensuring communication between the judges
35 who hear petitions concerning children for whom dependency
36 jurisdiction has been suspended while they are within the
37 jurisdiction of the juvenile court pursuant to Section 601 or 602.
38 A judge may communicate by providing a copy of any reports
39 filed pursuant to Section 727.2 concerning a ward to a court that
40 has jurisdiction over dependency proceedings concerning the child.

1 (4) A plan to collect data in order to evaluate the protocol
2 pursuant to Section 241.2.

3 (5) Counties that exercise the option provided for in this
4 subdivision shall adopt either an “on-hold” system as described
5 in subparagraph (A) or a “lead court/lead agency” system as
6 described in subparagraph (B). In no case shall there be any
7 simultaneous or duplicative case management or services provided
8 by both the county probation department and the child welfare
9 services department. It is the intent of the Legislature that judges,
10 in cases in which more than one judge is involved, shall not issue
11 conflicting orders.

12 (A) In counties in which an on-hold system is adopted, the
13 dependency jurisdiction shall be suspended or put on hold while
14 the child is subject to jurisdiction as a ward of the court. When it
15 appears that termination of the court’s jurisdiction, as established
16 pursuant to Section 601 or 602, is likely and that reunification of
17 the child with his or her parent or guardian would be detrimental
18 to the child, the county probation department and the child welfare
19 services department shall jointly assess and produce a
20 recommendation for the court regarding whether the court’s
21 dependency jurisdiction shall be resumed.

22 (B) In counties in which a lead court/lead agency system is
23 adopted, the protocol shall include a method for identifying which
24 court or agency will be the lead court/lead agency. That court or
25 agency shall be responsible for case management, conducting
26 statutorily mandated court hearings, and submitting court reports.

27 SEC. 187. Section 391 of the Welfare and Institutions Code is
28 amended to read:

29 391. (a) At any hearing to terminate jurisdiction over a
30 dependent child who has reached the age of majority, the county
31 welfare department shall do all of the following:

32 (1) Ensure that the child is present in court, unless the child
33 does not wish to appear in court, or document efforts by the county
34 welfare department to locate the child when the child is not
35 available.

36 (2) Submit a report verifying that the following information,
37 documents, and services have been provided to the child:

38 (A) Written information concerning the child’s dependency
39 case, including any known information regarding the child’s Indian
40 heritage or tribal connections, if applicable, his or her family

1 history and placement history, any photographs of the child or his
2 or her family in the possession of the county welfare department,
3 other than forensic photographs, the whereabouts of any siblings
4 under the jurisdiction of the juvenile court, unless the court
5 determines that sibling contact would jeopardize the safety or
6 welfare of the sibling, directions on how to access the documents
7 the child is entitled to inspect under Section 827, and the date on
8 which the jurisdiction of the juvenile court would be terminated.

9 (B) The following documents:

10 (i) Social security card.

11 (ii) Certified birth certificate.

12 (iii) Health and education summary, as described in subdivision
13 (a) of Section 16010.

14 (iv) Driver's license, as described in Section 12500 of the
15 Vehicle Code, or identification card, as described in Section 13000
16 of the Vehicle Code.

17 (v) A letter prepared by the county welfare department that
18 includes the following information:

19 (I) The child's name and date of birth.

20 (II) The dates during which the child was within the jurisdiction
21 of the juvenile court.

22 (III) A statement that the child was a foster youth in compliance
23 with state and federal financial aid documentation requirements.

24 (vi) If applicable, the death certificate of the parent or parents.

25 (vii) If applicable, proof of the child's citizenship or legal
26 residence.

27 (C) Assistance in completing an application for Medi-Cal or
28 assistance in obtaining other health insurance; referral to
29 transitional housing, if available, or assistance in securing other
30 housing; and assistance in obtaining employment or other financial
31 support.

32 (D) Assistance in applying for admission to college or to a
33 vocational training program or other educational institution and
34 in obtaining financial aid, where appropriate.

35 (E) Assistance in maintaining relationships with individuals
36 who are important to a child who has been in out-of-home
37 placement in a group home for six months or longer from the date
38 the child entered foster care, based on the child's best interests.

39 (b) The court may continue jurisdiction if it finds that the county
40 welfare department has not met the requirements of paragraph (2)

1 of subdivision (a) and that termination of jurisdiction would be
2 harmful to the best interests of the child. If the court determines
3 that continued jurisdiction is warranted pursuant to this section,
4 the continuation shall only be ordered for that period of time
5 necessary for the county welfare department to meet the
6 requirements of paragraph (2) of subdivision (a). This section shall
7 not be construed to limit the discretion of the juvenile court to
8 continue jurisdiction for other reasons. The court may terminate
9 jurisdiction if the county welfare department has offered the
10 required services, and the child either has refused the services or,
11 after reasonable efforts by the county welfare department, cannot
12 be located.

13 (c) The Judicial Council shall develop and implement standards,
14 and develop and adopt appropriate forms, necessary to implement
15 this section.

16 SEC. 188. Section 618.5 of the Welfare and Institutions Code
17 is amended and renumbered to read:

18 681.5 If a prosecuting attorney has appeared on behalf of the
19 people of the State of California in any juvenile court hearing
20 which is based upon a petition that alleges that a minor is a person
21 within the description of Section 602, neither that prosecuting
22 attorney nor any attorney from the office of that prosecuting
23 attorney shall represent the minor in a juvenile court proceeding
24 alleging that a minor is a person described in Section 300.

25 SEC. 189. Section 903.1 of the Welfare and Institutions Code
26 is amended to read:

27 903.1. (a) The father, mother, spouse, or other person liable
28 for the support of a minor, the estate of that person, and the estate
29 of the minor, shall be liable for the cost to the county of legal
30 services rendered to the minor by the public defender or other
31 public attorney pursuant to an order of the juvenile court, or for
32 the cost to the county for the legal services rendered to the minor
33 by an attorney in private practice appointed pursuant to an order
34 of the juvenile court. The father, mother, spouse, or other person
35 liable for the support of a minor and the estate of that person shall
36 also be liable for any cost to the county of legal services rendered
37 directly to the father, mother, or spouse of the minor, or any other
38 person liable for the support of the minor, in a dependency
39 proceeding by the public defender or other public attorney
40 appointed pursuant to an order of the juvenile court, or by an

1 attorney in private practice appointed pursuant to order of the
2 juvenile court. The liability of those persons (in this article called
3 relatives) and estates shall be a joint and several liability.

4 (b) Notwithstanding subdivision (a), the father, mother, spouse,
5 or other person liable for the support of the minor, the estate of
6 that person, or the estate of the minor, shall not be liable for the
7 costs of any of the legal services provided to any person described
8 in this section if a petition to declare the minor a dependent child
9 of the court pursuant to Section 300 is dismissed at or before the
10 jurisdictional hearing.

11 SEC. 190. Section 4688.6 of the Welfare and Institutions Code
12 is amended to read:

13 4688.6. (a) Notwithstanding any other provision of law to the
14 contrary, the department may receive and approve a proposal or
15 proposals by any regional center to provide for, secure, or ensure
16 the full payment of a lease or leases on housing based on the
17 availability for occupancy in each home. These proposals shall
18 not include an adult residential facility for persons with special
19 health care needs, as defined in Section 1567.50 of the Health and
20 Safety Code. Proposals submitted by regional centers shall meet
21 all of the following conditions:

22 (1) The acquired or developed real property is available for
23 occupancy by individuals eligible for regional center services and
24 is integrated with other housing in the community for people
25 without disabilities.

26 (2) The regional center has submitted documents demonstrating
27 the appropriate credentials and terms of the project and has
28 approved the proposed nonprofit ownership entity, management
29 entity, and developer or development entity for each project.

30 (3) The costs associated with the proposal are reasonable and
31 maximize the receipt of federal Medicaid funding. The department
32 shall only approve proposals that include a process for the regional
33 center to review recent sales of comparable properties to ensure
34 the purchase price is within the range of fair market value and, if
35 significant renovations of a home will be undertaken after the home
36 is purchased, competing bids for that renovation work to ensure
37 that the cost of the work is reasonable. For purposes of this
38 subdivision, “significant renovations” means renovations that
39 exceed 5 percent of the purchase price of the home.

1 (4) The proposal includes a plan for a transfer at a time certain
2 of the real property’s ownership to a nonprofit entity to be approved
3 by the regional center.

4 (5) The regional center has submitted, with the proposal, the
5 nonrefundable developer fee established in subdivision (d).

6 (b) Prior to approving a regional center proposal pursuant to
7 subdivision (a), the department may contract or consult with a
8 public or private sector entity that has appropriate experience in
9 structuring complex real estate financial transactions, but is not
10 otherwise involved in any lending related to the project to review
11 any of the following:

12 (1) The terms and conditions of the financing structure for
13 acquisition or development of the real property.

14 (2) Any and all agreements that govern the real property’s
15 ownership, occupancy, maintenance, management, and operation,
16 to ensure that the use of the property is maintained for the benefit
17 of persons with developmental disabilities.

18 (c) The department may impose a limit on the number of
19 proposals considered pursuant to subdivision (a). If a limit is
20 imposed, the department shall notify the Association of Regional
21 Center Agencies.

22 (d) (1) The department shall charge the developer of the housing
23 described in the regional center proposal a reasonable,
24 nonrefundable fee for each proposal submitted. The fee shall be
25 for the purpose of reimbursing the department’s costs associated
26 with conducting the review and approval required by subdivision
27 (b). The fee shall be set by the department within 30 days of the
28 effective date of the act that added this section, and shall be
29 adjusted annually, as necessary, to ensure the payment of the costs
30 incurred by the department.

31 (2) Fees collected shall be deposited in the Developmental
32 Disabilities Services Account established pursuant to Section
33 14672.9 of the Government Code and shall be used solely for the
34 purpose of conducting the review and approval required by
35 subdivision (b), upon appropriation by the Legislature. Interest
36 and dividends on moneys collected pursuant to this section shall,
37 notwithstanding Section 16305.7 of the Government Code, be
38 retained in the account for purposes of this section. Moneys
39 deposited in the Developmental Disabilities Services Account

1 pursuant to this subdivision shall not be subject to the requirements
2 of subdivision (i) of Section 14672.9 of the Government Code.

3 (3) Notwithstanding paragraph (2), for the 2008–09 fiscal year,
4 the Director of Finance may approve an expenditure of up to
5 seventy-five thousand dollars (\$75,000) by the department from
6 moneys deposited in the account for the purposes specified in
7 subdivision (b). In the 2009–10 fiscal year and each fiscal year
8 thereafter, moneys shall be available to the department upon
9 appropriation by the Legislature.

10 (e) No sale, encumbrance, hypothecation, assignment,
11 refinancing, pledge, conveyance, exchange, or transfer in any other
12 form of the real property, or of any of its interest therein, shall
13 occur without the prior written approval of the department and the
14 regional center.

15 (f) Notice of the restrictions pursuant to this section shall be
16 recorded against the acquired or developed real property subject
17 to this section.

18 (g) At least 30 days prior to granting approval under subdivision
19 (e), the department shall provide notice to the chairpersons and
20 vice chairpersons of the fiscal committees of the Assembly and
21 the Senate and the Director of Finance.

22 (h) The regional center shall not be eligible to acquire or develop
23 real property for the purpose of residential housing.

24 (i) Unless otherwise authorized by law, a regional center shall
25 not use purchase of service funds to implement this section.

26 (j) With the exception of funds authorized in paragraph (3) of
27 subdivision (d), this section shall be implemented within the
28 department’s annual budget. This subdivision shall not preclude
29 the receipt or use of federal, state non-General Fund, or private
30 funds to implement this section.

31 (k) The department shall establish guidelines and procedures
32 for the administration of this section.

33 SEC. 191. Section 4691 of the Welfare and Institutions Code
34 is amended to read:

35 4691. (a) The Legislature reaffirms its intent that
36 community-based day programs be planned and provided as part
37 of a continuum of services to enable persons with developmental
38 disabilities to approximate the pattern of everyday living available
39 to people of the same age without disabilities. The Legislature
40 further intends that standards be developed to ensure high-quality

1 services, and that equitable ratesetting procedures based upon those
2 standards be established, maintained, and revised, as necessary.
3 The Legislature intends that ratesetting procedures be developed
4 for all community-based day programs, which include adult
5 development centers, activity centers, infant day programs,
6 behavior management programs, social recreational programs, and
7 independent living programs.

8 (b) For the purpose of ensuring that regional centers may secure
9 high quality services for persons with developmental disabilities,
10 the State Department of Developmental Services shall promulgate
11 regulations establishing program standards and an equitable process
12 for setting rates of state payment for community-based day
13 programs. These regulations shall include, but are not limited to,
14 all of the following:

15 (1) The standards and requirements related to the operation of
16 the program including, but not limited to, staff qualifications,
17 staff-to-client ratios, client entrance and exit criteria, program
18 design, program evaluation, program and client records and
19 documentation, client placement, and personnel requirements and
20 functions.

21 (2) The allowable cost components of the program including
22 salary and wages, staff benefits, operating expenses, and
23 management organization costs where two or more programs are
24 operated by a separate and distinct corporation or entity.

25 (3) The rate determination processes for establishing rates, based
26 on the allowable costs of the allowable cost components. Different
27 rate determination processes may be developed for establishing
28 rates for new and existing programs, and for the initial and
29 subsequent years of implementation of the regulations. The
30 processes shall include, but are not limited to, all of the following:

31 (A) The procedure for identification and grouping of programs
32 by type of day program and approved staff-to-client ratio.

33 (B) The requirements for an identification of the program, cost,
34 and other information, if any, which the program is required to
35 submit to the department or the regional center, the consequences,
36 if any, for failure to do so, and the timeframes and format for
37 submission and review.

38 (C) The ratesetting methodology.

39 (D) A procedure for adjusting rates as a result of anticipated
40 and unanticipated program changes and fiscal audits of the program

1 and a procedure for appealing rates, including the timeframes for
2 the program to request an adjustment or appeal, and for the
3 department to respond.

4 (E) A procedure for increasing established rates and the
5 allowable range of rates due to cost-of-living adjustments.

6 (F) A procedure for increasing established rates as a result of
7 Budget Act appropriations made pursuant to the ratesetting
8 methodology established pursuant to Section 4691.5 and
9 subdivision (c) of this section.

10 The department shall develop these regulations in consultation
11 with representatives from organizations representing the
12 developmental services system as determined by the department.
13 The State Council on Developmental Disabilities, and other
14 organizations representing regional centers, providers, and clients
15 shall have an opportunity to review and comment upon the
16 proposed regulations prior to their promulgation. The department
17 shall promulgate these regulations for all community-based day
18 programs by July 1, 1990.

19 (c) Upon the promulgation of regulations pursuant to subdivision
20 (b), and pursuant to Section 4691.5, and by September 1 of each
21 year thereafter, the department shall establish rates pursuant to the
22 regulations. Rate increases during the 1990–91 and 1991–92 fiscal
23 years shall be limited to those specified in subdivision (b). For the
24 1992–93 fiscal year and all succeeding fiscal years, any increases
25 proposed during those years in the rates of reimbursement
26 established pursuant to the regulations, except for rate increases
27 due to rate appeals and rate adjustments based on unanticipated
28 program changes, shall be subject to the appropriation of sufficient
29 funds in the Budget Act, for those purposes, to fully provide the
30 proposed increase to all eligible programs for the entire fiscal year.
31 If the funds appropriated in the Budget Act are not sufficient to
32 fully provide for the proposed increase in the rates of
33 reimbursement for all eligible programs for the entire fiscal year,
34 the proposed increase shall be limited to the level of funds
35 appropriated. The increases proposed in the rates of reimbursement
36 shall be reduced equitably among all eligible providers in
37 accordance with funds appropriated and the eligible programs shall
38 be reimbursed at the reduced amount for the entire fiscal year.

39 (d) Using the reported costs of day programs reimbursed at a
40 permanent rate and the standards and ratesetting processes

1 promulgated pursuant to subdivision (b) as a basis, the department
2 shall report to the Legislature as follows:

3 (1) By April 15, 1993, and every odd year thereafter, the
4 difference between permanent rates for existing programs and the
5 rates of those programs based upon their allowable costs and client
6 attendance, submitted pursuant to the regulations specified in
7 subdivision (b). In reporting the difference, the department shall
8 also identify the amount of the difference associated with programs
9 whose rates are above the allowable range of rates, which is
10 available for increasing the rates of programs whose rates are below
11 the allowable range, to within the allowable range, and any other
12 pertinent cost or rate information which the department deems
13 necessary.

14 (2) By April 15, 1994, and every even year thereafter, the level
15 of funding, if any, which was not appropriated to reimburse
16 providers at the proposed rates reported the prior fiscal year
17 pursuant to paragraph (1), and any other pertinent cost or rate
18 information which the department deems necessary.

19 (3) The April 15, 1996, report pursuant to paragraph (2) shall
20 be prepared jointly by the department and organizations
21 representing community-based day program providers, as
22 determined by the department. That report shall also include a
23 review of the ratesetting process and recommendations, if any, for
24 its modification.

25 (e) Rates established by the department pursuant to subdivision
26 (b) are exempt from the provisions of Chapter 3.5 (commencing
27 with Section 11340) of Part 1 of Division 3 of Title 2 of the
28 Government Code.

29 (f) The department shall ensure that the regional centers monitor
30 compliance with program standards.

31 SEC. 192. Section 4783 of the Welfare and Institutions Code
32 is amended to read:

33 4783. (a) (1) The Family Cost Participation Program is hereby
34 created in the State Department of Developmental Services for the
35 purpose of assessing a cost participation to parents, as defined in
36 Section 50215 of Title 17 of the California Code of Regulations,
37 who have a child to whom all of the following applies:

38 (A) The child has a developmental disability or is eligible for
39 services under the California Early Intervention Services Act (Title
40 14 (commencing with Section 95000) of the Government Code).

1 (B) The child is zero years of age ~~to~~ *through* 17 years of age.

2 (C) The child lives in the parents' home.

3 (D) The child receives services and supports purchased through
4 the regional center.

5 (E) The child is not eligible for Medi-Cal.

6 (2) Notwithstanding any other provision of law, a parent
7 described in subdivision (a) shall participate in the Family Cost
8 Participation Program established pursuant to this section.

9 (3) Application of this section to children zero ~~to~~ *through* two
10 years of age, inclusive, shall be contingent upon approval by the
11 United States Department of Education.

12 (b) (1) The department shall develop and establish a Family
13 Cost Participation Schedule that shall be used by regional centers
14 to assess the parents' cost participation. The schedule shall consist
15 of a sliding scale for families with an annual gross income not less
16 than 400 percent of the federal poverty guideline, and be adjusted
17 for the level of annual gross income and the number of persons
18 living in the family home.

19 (2) The schedule established pursuant to this section shall be
20 exempt from the rulemaking provisions of the Administrative
21 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
22 Part 1 of Division 3 of Title 2 of the Government Code).

23 (c) Family cost participation assessments shall only be applied
24 to respite, day care, and camping services that are included in the
25 child's individual program plan or individualized family service
26 plan for children zero ~~to two years of age, inclusive~~ *through two*
27 *years of age*.

28 (d) If there is more than one minor child living in the parents'
29 home and receiving services or supports paid for by the regional
30 center, or living in a 24-hour out-of-home facility, including a
31 developmental center, the assessed amount shall be adjusted as
32 follows:

33 (1) A parent that meets the criteria specified in subdivision (b)
34 with two children shall be assessed at 75 percent of the respite,
35 day care, and camping services in each child's individual program
36 plan or individualized family service plan for each child living at
37 home.

38 (2) A parent that meets the criteria specified in subdivision (b)
39 with three children shall be assessed at 50 percent of the respite,
40 day care, and camping services included in each child's individual

1 program plan or individualized family service plan for each child
2 living at home.

3 (3) A parent that meets the criteria specified in subdivision (b)
4 with four children shall be assessed 25 percent of the respite, day
5 care, and camping services included in each child's individual
6 program plan or individualized family service plan for each child
7 living at home.

8 (4) A parent that meets the criteria specified in subdivision (b)
9 with more than four children shall be exempt from participation
10 in the Family Cost Participation Program.

11 (e) For each child, the amount of cost participation shall be less
12 than the amount of the parental fee that the parent would pay if
13 the child lived in a 24-hour, out-of-home facility.

14 (f) Commencing January 1, 2005, each regional center shall be
15 responsible for administering the Family Cost Participation
16 Program.

17 (g) Family cost participation assessments or reassessments shall
18 be conducted as follows:

19 (1) (A) A regional center shall assess the cost participation for
20 all parents of current consumers who meet the criteria specified
21 in this section. A regional center shall use the most recent
22 individual program plan or individualized family service plan for
23 this purpose.

24 (B) A regional center shall assess the cost participation for
25 parents of newly identified consumers at the time of the initial
26 individual program plan or the individualized family service plan.

27 (C) Reassessments for cost participation shall be conducted as
28 part of the individual program plan or individual family service
29 plan review pursuant to subdivision (b) of Section 4646 of this
30 code or subdivision (f) of Section 95020 of the Government Code.

31 (D) The parents are responsible for notifying the regional center
32 when a change in family income occurs that would result in a
33 change in the assessed amount of cost participation.

34 (2) Parents shall self-certify their gross annual income to the
35 regional center by providing copies of W-2 Wage Earners
36 Statements, payroll stubs, a copy of the prior year's state income
37 tax return, or other documents and proof of other income.

38 (3) A regional center shall notify parents of the parents' assessed
39 cost participation within 10 working days of receipt of the parents'
40 complete income documentation.

1 (4) Parents who have not provided copies of income
2 documentation pursuant to paragraph (2) shall be assessed the
3 maximum cost participation based on the highest income level
4 adjusted for family size until such time as the appropriate income
5 documentation is provided. Parents who subsequently provide
6 income documentation that results in a reduction in their cost
7 participation shall be reimbursed for the actual cost difference
8 incurred for services identified in the individual program plan or
9 individualized family service plan for respite, day care, and
10 camping services, for 90 calendar days preceding the reassessment.
11 The actual cost difference is the difference between the maximum
12 cost participation originally assessed and the reassessed amount
13 using the parents' complete income documentation, that is
14 substantiated with receipts showing that the services have been
15 purchased by the parents.

16 (5) The executive director of the regional center may grant a
17 cost participation adjustment for parents who incur an unavoidable
18 and uninsured catastrophic loss with direct economic impact on
19 the family or who substantiate, with receipts, significant
20 unreimbursed medical costs associated with care for a child who
21 is a regional center consumer. A redetermination of the cost
22 participation adjustment shall be made at least annually.

23 (h) A provider of respite, day care, or camping services shall
24 not charge a rate for the parents' share of cost that is higher than
25 the rate paid by the regional center for its share of cost.

26 (i) The department shall develop, and regional centers shall use,
27 all forms and documents necessary to administer the program
28 established pursuant to this section. The forms and documents
29 shall be posted on the department's Internet Web site. A regional
30 center shall provide appropriate materials to parents at the initial
31 individual program plan or individualized family service plan
32 meeting and subsequent individual program plan or individualized
33 family service plan review meetings. These materials shall include
34 a description of the Family Cost Participation Program.

35 (j) The department shall include an audit of the Family Cost
36 Participation Program during its audit of a regional center.

37 (k) (1) Parents of children ages three to 17 years of age,
38 ~~inclusive~~, *through 17 years of age* may appeal an error in the
39 amount of the parents' cost participation to the executive director
40 of the regional center within 30 days of notification of the amount

1 of the assessed cost participation. The parents may appeal to the
 2 Director of Developmental Services, or his or her designee, any
 3 decision by the executive director made pursuant to this subdivision
 4 within 15 days of receipt of the written decision of the executive
 5 director.

6 (2) Parents of children ages three ~~to 17 years of age, inclusive,~~
 7 *through 17 years of age* who dispute the decision of the executive
 8 director pursuant to paragraph (5) of subdivision (g) shall have a
 9 right to a fair hearing as described in, and the regional center shall
 10 provide notice pursuant to, Chapter 7 (commencing with Section
 11 4700). This paragraph shall become inoperative on July 1, 2006.

12 (3) On and after July 1, 2006, a parent described in paragraph
 13 (2) shall have the right to appeal the decision of the executive
 14 director to the Director of Developmental Services, or his or her
 15 designee, within 15 days of receipt of the written decision of the
 16 executive director.

17 (l) For parents of children ages zero ~~to~~ *through* two years of
 18 age, inclusive, the complaint, mediation, and due process
 19 procedures set forth in Sections 52170 to 52174, inclusive, of Title
 20 17 of the California Code of Regulations shall be used to resolve
 21 disputes regarding this section.

22 (m) The department may adopt emergency regulations to
 23 implement this section. The adoption, amendment, repeal, or
 24 readoption of a regulation authorized by this section is deemed to
 25 be necessary for the immediate preservation of the public peace,
 26 health and safety, or general welfare, for purposes of Sections
 27 11346.1 and 11349.6 of the Government Code, and the department
 28 is hereby exempted from the requirement that it describe specific
 29 facts showing the need for immediate action. A certificate of
 30 compliance for these implementing regulations shall be filed within
 31 24 months following the adoption of the first emergency
 32 regulations filed pursuant to this subdivision.

33 (n) By April 1, 2005, and annually thereafter, the department
 34 shall report to the appropriate fiscal and policy committees of the
 35 Legislature on the status of the implementation of the Family Cost
 36 Participation Program established under this section. On and after
 37 April 1, 2006, the report shall contain all of the following:

38 (1) The annual total purchase of services savings attributable
 39 to the program per regional center.

1 (2) The annual costs to the department and each regional center
2 to administer the program.

3 (3) The number of families assessed a cost participation per
4 regional center.

5 (4) The number of cost participation adjustments granted
6 pursuant to paragraph (5) of subdivision (g) per regional center.

7 (5) The number of appeals filed pursuant to subdivision (k) and
8 the number of those appeals granted, modified, or denied.

9 SEC. 193. Section 4860 of the Welfare and Institutions Code
10 is amended to read:

11 4860. (a) (1) The hourly rate for supported employment
12 services provided to consumers receiving individualized services
13 shall be thirty dollars and eighty-two cents (\$30.82).

14 (2) Job coach hours spent in travel to consumer worksites may
15 be reimbursable for individualized services only when the job
16 coach travels from the vendor's headquarters to the consumer's
17 worksite or from one consumer's worksite to another, and only
18 when the travel is one way.

19 (b) The hourly rate for group services shall be thirty dollars and
20 eighty-two cents (\$30.82), regardless of the number of consumers
21 served in the group. Consumers in a group shall be scheduled to
22 start and end work at the same time, unless an exception that takes
23 into consideration the consumer's compensated work schedule is
24 approved in advance by the regional center. The department, in
25 consultation with stakeholders, shall adopt regulations to define
26 the appropriate grounds for granting these exceptions. When the
27 number of consumers in a supported employment placement group
28 drops to fewer than the minimum required in subdivision (r) of
29 Section 4851, the regional center may terminate funding for the
30 group services in that group, unless, within 90 days, the program
31 provider adds one or more regional centers, or Department of
32 Rehabilitation-funded supported employment consumers to the
33 group.

34 (c) Job coaching hours for group services shall be allocated on
35 a prorated basis between a regional center and the Department of
36 Rehabilitation when regional center and Department of
37 Rehabilitation consumers are served in the same group.

38 (d) When Section 4855 applies, fees shall be authorized for the
39 following:

1 (1) A three-hundred-sixty-dollar (\$360) fee shall be paid to the
2 program provider upon intake of a consumer into a supported
3 employment program. No fee shall be paid if that consumer
4 completed a supported employment intake process with that same
5 supported employment program within the previous 12 months.

6 (2) A seven-hundred-twenty-dollar (\$720) fee shall be paid
7 upon placement of a consumer in an integrated job, except that no
8 fee shall be paid if that consumer is placed with another consumer
9 or consumers assigned to the same job coach during the same hours
10 of employment.

11 (3) A seven-hundred-twenty-dollar (\$720) fee shall be paid after
12 a 90-day retention of a consumer in a job, except that no fee shall
13 be paid if that consumer has been placed with another consumer
14 or consumers, assigned to the same job coach during the same
15 hours of employment.

16 (e) Notwithstanding paragraph (4) of subdivision (a) of Section
17 4648 the regional center shall pay the supported employment
18 program rates established by this section.

19 SEC. 194. Section 5777 of the Welfare and Institutions Code
20 is amended to read:

21 5777. (a) (1) Except as otherwise specified in this part, a
22 contract entered into pursuant to this part shall include a provision
23 that the mental health plan contractor shall bear the financial risk
24 for the cost of providing medically necessary mental health services
25 to Medi-Cal beneficiaries irrespective of whether the cost of those
26 services exceeds the payment set forth in the contract. If the
27 expenditures for services do not exceed the payment set forth in
28 the contract, the mental health plan contractor shall report the
29 unexpended amount to the department, but shall not be required
30 to return the excess to the department.

31 (2) If the mental health plan is not the county's, the mental
32 health plan may not transfer the obligation for any mental health
33 services to Medi-Cal beneficiaries to the county. The mental health
34 plan may purchase services from the county. The mental health
35 plan shall establish mutually agreed-upon protocols with the county
36 that clearly establish conditions under which beneficiaries may
37 obtain non-Medi-Cal reimbursable services from the county.
38 Additionally, the plan shall establish mutually agreed-upon
39 protocols with the county for the conditions of transfer of
40 beneficiaries who have lost Medi-Cal eligibility to the county for

1 care under Part 2 (commencing with Section 5600), Part 3
2 (commencing with Section 5800), and Part 4 (commencing with
3 Section 5850).

4 (3) The mental health plan shall be financially responsible for
5 ensuring access and a minimum required scope of benefits,
6 consistent with state and federal requirements, to the services to
7 the Medi-Cal beneficiaries of that county regardless of where the
8 beneficiary resides. The department shall require that the definition
9 of medical necessity used, and the minimum scope of benefits
10 offered, by each mental health contractor be the same, except to
11 the extent that any variations receive prior federal approval and
12 are consistent with state and federal statutes and regulations.

13 (b) Any contract entered into pursuant to this part may be
14 renewed if the plan continues to meet the requirements of this part,
15 regulations promulgated pursuant thereto, and the terms and
16 conditions of the contract. Failure to meet these requirements shall
17 be cause for nonrenewal of the contract. The department may base
18 the decision to renew on timely completion of a mutually
19 agreed-upon plan of correction of any deficiencies, submissions
20 of required information in a timely manner, or other conditions of
21 the contract. At the discretion of the department, each contract
22 may be renewed for a period not to exceed three years.

23 (c) (1) The obligations of the mental health plan shall be
24 changed only by contract or contract amendment.

25 (2) A change may be made during a contract term or at the time
26 of contract renewal, where there is a change in obligations required
27 by federal or state law or when required by a change in the
28 interpretation or implementation of any law or regulation. To the
29 extent permitted by federal law and except as provided under
30 paragraph (10) of subdivision (c) of Section 5778, if any change
31 in obligations occurs that affects the cost to the mental health plan
32 of performing under the terms of its contract, the department may
33 reopen contracts to negotiate the state General Fund allocation to
34 the mental health plan under Section 5778, if the mental health
35 plan is reimbursed through a fee-for-service payment system, or
36 the capitation rate to the mental health plan under Section 5779,
37 if the mental health plan is reimbursed through a capitated rate
38 payment system. During the time period required to redetermine
39 the allocation or rate, payment to the mental health plan of the
40 allocation or rate in effect at the time the change occurred shall be

1 considered interim payments and shall be subject to increase or
2 decrease, as the case may be, effective as of the date on which the
3 change is effective.

4 (3) To the extent permitted by federal law, either the department
5 or the mental health plan may request that contract negotiations
6 be reopened during the course of a contract due to substantial
7 changes in the cost of covered benefits that result from an
8 unanticipated event.

9 (d) The department shall immediately terminate a contract when
10 the director finds that there is an immediate threat to the health
11 and safety of Medi-Cal beneficiaries. Termination of the contract
12 for other reasons shall be subject to reasonable notice of the
13 department's intent to take that action and notification of affected
14 beneficiaries. The plan may request a public hearing by the Office
15 of Administrative Hearings.

16 (e) A plan may terminate its contract in accordance with the
17 provisions in the contract. The plan shall provide written notice
18 to the department at least 180 days prior to the termination or
19 nonrenewal of the contract.

20 (f) Upon the request of the Director of Mental Health, the
21 Director of Managed Health Care may exempt a mental health
22 plan contractor or a capitated rate contract from the Knox-Keene
23 Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing
24 with Section 1340) of Division 2 of the Health and Safety Code).
25 These exemptions may be subject to conditions the director deems
26 appropriate. Nothing in this part shall be construed to impair or
27 diminish the authority of the Director of Managed Health Care
28 under the Knox-Keene Health Care Service Plan Act of 1975, nor
29 shall anything in this part be construed to reduce or otherwise limit
30 the obligation of a mental health plan contractor licensed as a
31 health care service plan to comply with the requirements of the
32 Knox-Keene Health Care Service Plan Act of 1975, and the rules
33 of the Director of Managed Health Care promulgated thereunder.
34 The Director of Mental Health, in consultation with the Director
35 of Managed Health Care, shall analyze the appropriateness of
36 licensure or application of applicable standards of the Knox-Keene
37 Health Care Service Plan Act of 1975.

38 (g) (1) The department, pursuant to an agreement with the State
39 Department of Health Care Services, shall provide oversight to
40 the mental health plans to ensure quality, access, and cost

1 efficiency. At a minimum, the department shall, through a method
2 independent of any agency of the mental health plan contractor,
3 monitor the level and quality of services provided, expenditures
4 pursuant to the contract, and conformity with federal and state law.

5 (2) (A) Commencing July 1, 2008, county mental health plans,
6 in collaboration with the department, the federally required external
7 review organization, providers, and other stakeholders, shall
8 establish an advisory statewide performance improvement project
9 (PIP) to increase the coordination, quality, effectiveness, and
10 efficiency of service delivery to children who are either receiving
11 at least three thousand dollars (\$3,000) per month in the Early and
12 Periodic Screening, Diagnosis, and Treatment (EPSDT) Program
13 services or children identified in the top 5 percent of the county
14 EPSDT cost, whichever is lowest. The statewide PIP shall replace
15 one of the two required PIPs that mental health plans must perform
16 under federal regulations outlined in the mental health plan
17 contract.

18 (B) The federally required external quality review organization
19 shall provide independent oversight and reviews with
20 recommendations and findings or summaries of findings, as
21 appropriate, from a statewide perspective. This information shall
22 be accessible to county mental health plans, the department, county
23 welfare directors, providers, and other interested stakeholders in
24 a manner that both facilitates, and allows for, a comprehensive
25 quality improvement process for the EPSDT Program.

26 (C) Each July, the department, in consultation with the federally
27 required external quality review organization and the county mental
28 health plans, shall determine the average monthly cost threshold
29 for counties to use to identify children to be reviewed who are
30 currently receiving EPSDT services. The department shall consult
31 with representatives of county mental health directors, county
32 welfare directors, providers, and the federally required external
33 quality review organization in setting the annual average monthly
34 cost threshold and in implementing the statewide PIP. The
35 department shall provide an annual update to the Legislature on
36 the results of this statewide PIP by October 1 of each year for the
37 prior fiscal year.

38 (D) It is the intent of the Legislature for the EPSDT PIP to
39 increase the coordination, quality, effectiveness, and efficiency of
40 service delivery to children receiving EPSDT services and to

1 facilitate evidence-based practices within the program, and other
2 high-quality practices consistent with the values of the public
3 mental health system within the program to ensure that children
4 are receiving appropriate mental health services for their mental
5 health wellness.

6 (E) This paragraph shall become inoperative on September 1,
7 2011.

8 (h) County employees implementing or administering a mental
9 health plan act in a discretionary capacity when they determine
10 whether or not to admit a person for care or to provide any level
11 of care pursuant to this part.

12 (i) If a county chooses to discontinue operations as the local
13 mental health plan, the new plan shall give reasonable consideration
14 to affiliation with nonprofit community mental health agencies
15 that were under contract with the county and that meet the mental
16 health plan’s quality and cost efficiency standards.

17 (j) Nothing in this part shall be construed to modify, alter, or
18 increase the obligations of counties as otherwise limited and
19 defined in Chapter 3 (commencing with Section 5700) of Part 2.
20 The county’s maximum obligation for services to persons not
21 eligible for Medi-Cal shall be no more than the amount of funds
22 remaining in the mental health subaccount pursuant to Sections
23 17600, 17601, 17604, 17605, 17606, and 17609 after fulfilling the
24 Medi-Cal contract obligations.

25 SEC. 195. Section 11402.6 of the Welfare and Institutions
26 Code is amended to read:

27 11402.6. (a) The federal government has provided the state
28 with the option of including in its state plan children placed in a
29 private facility operated on a for-profit basis.

30 (b) For children for whom the county placing agency has
31 exhausted all other placement options, notwithstanding subdivision
32 (h) of Section 11400 and subject to Section 15200.5, a child who
33 is otherwise eligible for federal financial participation in the
34 AFDC-FC payment shall be eligible for aid under this chapter
35 when the child is placed in a for-profit child care institution and
36 meets all of the following criteria, which shall be clearly
37 documented in the county welfare department case file:

38 (1) The child has extraordinary and unusual special behavioral
39 or medical needs that make the child difficult to place, including,
40 but not limited to, being medically fragile, brittle diabetic, having

1 severe head injuries, a dual diagnosis of mental illness and
2 substance abuse or a dual diagnosis of developmental delay and
3 mental illness.

4 (2) No other comparable private nonprofit facility or public
5 licensed residential care home exists in the state that is willing to
6 accept placement and is capable of meeting the child's
7 extraordinary special needs.

8 (3) The county placing agency has demonstrated that no other
9 alternate placement option exists for the child.

10 (4) The child has a developmental disability and is eligible for
11 both federal AFDC-FC payments and for regional center services.

12 (c) Federal financial participation shall be provided pursuant to
13 Section 11402 for children described in subdivision (a) subject to
14 all of the following conditions, which shall be clearly documented
15 in the county welfare department case file.

16 (1) The county placing agency enters into a performance-based
17 placement agreement with the for-profit facility to ensure the
18 facility is providing services to improve the safety, permanency,
19 and well-being outcomes of the placed children pursuant to Section
20 10601.2.

21 (2) The county placing agency will require the facility to ensure
22 placement in the child's community to the degree possible to
23 enhance ongoing connections with the child's family and to
24 promote the establishment of lifelong connections with committed
25 adults.

26 (3) The county placing agency monitors and reviews the
27 facility's outcome performance indicators every six months.

28 (4) In no event shall federal financial participation in this
29 placement exceed a 12-month period.

30 (5) Payments made under this section shall not be made on
31 behalf of any more than five children in a county at any one time.

32 (6) Payments made under this section shall be made pursuant
33 to Sections 4684 and 11464, and only to a group home that is an
34 approved vendor of a regional center.

35 (d) This section shall be implemented only during a federal
36 fiscal year in which the department determines that no restriction
37 on federal matching AFDC-FC payment exists.

38 (e) As used in this section, "child care institution" means a
39 nondetention facility that has been licensed in accordance with the
40 California Community Care Facilities Act (Chapter 3 (commencing

1 with Section 1500) of Division 2 of the Health and Safety Code),
2 and that has a licensed capacity not exceeding 25 children.

3 (f) The county placing agency shall review and report to the
4 juvenile court at every six-month case plan update if this placement
5 remains appropriate and necessary and what the plan is for
6 discharge to a less restrictive placement.

7 (g) Notwithstanding subdivision (d) or any other provision of
8 law, this section shall not be implemented before July 1, 2010.

9 SEC. 196. Section 12315 of the Welfare and Institutions Code
10 is amended to read:

11 12315. (a) (1) Commencing January 1, 2009, a pilot project
12 shall be established in five consenting counties that provides
13 severely impaired recipients who receive in-home supportive
14 services under this article through the public authority, as described
15 in Section 12301.6, with a choice of receiving services through
16 the public authority or receiving services through a voluntary
17 nonprofit or proprietary agency pursuant to Section 12302. The
18 pilot project shall be developed to provide services to severely
19 impaired recipients, as described in Section 12303.4.

20 (2) To accomplish this end, the five consenting counties shall
21 administer the In-Home Supportive Services (IHSS) program
22 through a public authority pursuant to Section 12301.6.

23 (3) (A) Following the submission of input and recommendations
24 of the IHSS advisory committee for the county, each participating
25 county, with the consent of the public authority in that county, or
26 the public authority, with the consent of the participating county,
27 shall contract with a voluntary nonprofit or proprietary agency,
28 pursuant to Section 12302.

29 (B) Severely impaired recipients in each participating county
30 may continue to receive supportive services through the county's
31 public authority, or may choose to receive services through the
32 voluntary nonprofit or proprietary agency, pursuant to paragraph
33 (1). Recipients who choose to receive services through the
34 voluntary nonprofit or proprietary agency shall be compensated
35 only for those services described in the recipients' then-existing
36 care plan, as approved by the county social worker.

37 (4) Administrative costs of the pilot project, including the cost
38 of developing guidelines other than the guidelines in this section
39 and the cost of administering the project and providing oversight,
40 shall not be paid by the state. Instead, an estimate of administrative

1 costs shall be included in the county request for proposal for each
2 contract with the voluntary nonprofit or proprietary agency and
3 administrative costs shall then be paid by the agency up to the
4 amount estimated unless the county and agency reach an alternative
5 cost-sharing agreement in the contract that does not involve state
6 participation.

7 (b) (1) (A) For purposes of this section, to the extent possible,
8 all providers employed by the voluntary nonprofit or proprietary
9 agency shall be persons previously listed on the public authority's
10 registry. The agency shall, pursuant to the contract, continually
11 recruit and provide the public authority with names of new workers
12 for the registry.

13 (B) The voluntary nonprofit or proprietary agency in each
14 participating county shall provide for training for all providers
15 recruited pursuant to this paragraph. A public authority may retain
16 the voluntary nonprofit or proprietary agency to provide these
17 services for and under the direction of the public authority. A
18 public authority shall not be eligible to receive reimbursement for
19 any costs associated with administering the pilot project. This shall
20 not prohibit any public authority from using the funding it receives
21 pursuant to paragraph (4) of subdivision (a) for newsletters and
22 other means of communication about training opportunities
23 available through the voluntary nonprofit or proprietary agency.

24 (C) All providers employed by the voluntary nonprofit or
25 proprietary agency shall be paid no less than the wages and benefits
26 provided for in the public authority's collective bargaining
27 agreement, provided that this provision shall not obligate the state
28 to participate in a contract rate higher than the maximum allowable
29 contract rate. However, providers employed by the voluntary
30 nonprofit or proprietary agency are not covered by any existing
31 collective bargaining agreements with the public authority.

32 (2) A voluntary nonprofit or proprietary agency that contracts
33 with a participating county pursuant to subdivision (a) shall
34 perform all of the following duties:

35 (A) Maintain a live, on-call emergency service response system
36 that is available 24 hours a day, seven days a week.

37 (B) Replace or supplement providers for a recipient who needs
38 immediate service for the sake of preserving his or her health or
39 safety within two hours of notification.

1 (C) To the extent possible, employ the recipient’s preferred
2 provider or providers.

3 (D) If required by the county, provide emergency backup
4 services to severely impaired IHSS recipients when there is an
5 unexpected interruption in services.

6 (E) Maintain a list of its providers with the public authority.

7 (F) Establish and maintain an upskilling program, based on
8 practices in existing agency contracts, wherein employees may
9 have the opportunity to use work experience and training toward
10 upward movement on a long-term care career ladder. Any costs
11 associated with the development and maintenance of the upskilling
12 program shall be paid solely by the voluntary nonprofit or
13 proprietary agency.

14 (G) Be liable for any fraud, waste, or abuse for which it is
15 responsible.

16 (3) For the duration of the pilot project, supportive services not
17 provided in any month due to hospitalization, illness, refusal, or
18 other cause not within the control of the provider shall not be made
19 up in a subsequent period without case worker approval.

20 (c) (1) In each participating county, the IHSS advisory
21 committee, as described in Section 12301.3, shall monitor the pilot
22 program.

23 (2) Each participating county shall not be eligible to receive
24 state reimbursement of administrative costs associated with
25 monitoring the pilot program. Any administrative costs incurred
26 by a public authority for monitoring the pilot project shall be paid
27 to the public authority pursuant to paragraph (4) of subdivision
28 (a). Any advisory committee expenses incurred as a result of this
29 pilot project, if determined to be reimbursable to the county, shall
30 be reimbursed with the current advisory committee allocation.

31 (3) Each county pilot project shall continue for four years,
32 provided that if a county takes action to terminate a contract for
33 cause, as defined in the contract, it may then terminate its
34 participation in the pilot project. By the end of the third year, each
35 participating county shall provide for an independent evaluation
36 to assess the success of the pilot program, based on all of the
37 following criteria:

38 (A) Consumer satisfaction.

39 (B) Cost-effectiveness.

40 (C) Average turnover of providers.

1 (D) The effect of the pilot project on non-IHSS vendors,
2 workers, and referral agencies.

3 (E) Worker satisfaction.

4 (F) The extent to which counties identify, refer to, and work
5 with appropriate agencies in investigation, administrative action,
6 or prosecution of instances of fraud, as defined in subdivision (a)
7 of Section 12305.8, in the provision of supportive services.

8 (d) All costs associated with the independent evaluation shall
9 be paid solely by the voluntary nonprofit or proprietary agency.

10 (e) The independent evaluation shall be sent directly to the
11 appropriate policy and fiscal committees of the Legislature.

12 (f) County social workers shall continue to establish eligibility,
13 needs, and frequency of service and serve as recipient advocates,
14 as appropriate.

15 SEC. 197. Section 14005.25 of the Welfare and Institutions
16 Code, as amended by Section 27 of Chapter 758 of the Statutes of
17 2008, is amended to read:

18 14005.25. (a) To the extent federal financial participation is
19 available, the department shall exercise the option under Section
20 1902(e)(12) of the federal Social Security Act (42 U.S.C. Sec.
21 1396a(e)(12)) to extend continuous eligibility to children 19 years
22 of age and younger. A child shall remain eligible pursuant to this
23 subdivision from the date of a determination of eligibility for
24 Medi-Cal benefits until the earlier of either:

25 (1) The end of a 12-month period following the eligibility
26 determination.

27 (2) The date the individual exceeds the age of 19 years.

28 (b) This section shall be implemented only if, and to the extent
29 that, federal financial participation is available.

30 (c) Notwithstanding Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
32 the department shall, without taking regulatory action, implement
33 this section by means of all-county letters or similar instructions.
34 Thereafter, the department shall adopt regulations in accordance
35 with the requirements of Chapter 3.5 (commencing with Section
36 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

37 (d) In order to implement changes in the level of funding for
38 health care services, commencing on the first day of the month
39 following 90 days after the operative date of Chapter 758 of the

1 Statutes of 2008, the continuous eligibility time period provided
2 in paragraph (1) of subdivision (a) shall be reduced to six months.

3 (e) This section shall remain in effect only until January 1, 2012,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2012, deletes or extends that date.

6 SEC. 198. Section 14005.25 of the Welfare and Institutions
7 Code, as added by Section 28 of Chapter 758 of the Statutes of
8 2008, is amended to read:

9 14005.25. (a) To the extent federal financial participation is
10 available, the department shall exercise the option under Section
11 1902(e)(12) of the federal Social Security Act (42 U.S.C. Sec.
12 1396a(e)(12)) to extend continuous eligibility to children 19 years
13 of age and younger. A child shall remain eligible pursuant to this
14 subdivision from the date of a determination of eligibility for
15 Medi-Cal benefits until the earlier of either:

16 (1) The end of a 12-month period following the eligibility
17 determination.

18 (2) The date the individual exceeds the age of 19 years.

19 (b) This section shall be implemented only if, and to the extent
20 that, federal financial participation is available.

21 (c) Notwithstanding Chapter 3.5 (commencing with Section
22 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
23 the department shall, without taking regulatory action, implement
24 this section by means of all-county letters or similar instructions.
25 Thereafter, the department shall adopt regulations in accordance
26 with the requirements of Chapter 3.5 (commencing with Section
27 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

28 (d) This section shall become operative on January 1, 2012.

29 SEC. 199. Section 14007.9 of the Welfare and Institutions
30 Code is amended to read:

31 14007.9. (a) The department shall adopt the option made
32 available under Section 1902(a)(10)(A)(ii)(XIII) of the federal
33 Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII)). In
34 order to be eligible for benefits under this section, an individual
35 shall be required to meet all of the following requirements:

36 (1) His or her net countable income is less than 250 percent of
37 the federal poverty level for one person or, if the deeming of
38 spousal income applies to the individual, his or her net countable
39 income is less than 250 percent of the federal poverty level for
40 two persons.

1 (2) He or she is disabled under Title II of the Social Security
2 Act (42 U.S.C. Sec. 401 et seq.), Title XVI of the Social Security
3 Act (42 U.S.C. Sec. 1381 et seq.), or Section 1902(v) of the Social
4 Security Act (42 U.S.C. Sec. 1396a(v)). An individual shall be
5 determined to be eligible under this section without regard to his
6 or her ability to engage in, or actual engagement in, substantial
7 gainful activity, as defined in Section 223(d)(4) of the Social
8 Security Act (42 U.S.C. Sec. 423(d)(4)).

9 (3) Except as otherwise provided in this section, his or her net
10 nonexempt resources, which shall be determined in accordance
11 with the methodology used under Title XVI of the federal Social
12 Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the
13 limits provided for under those provisions.

14 (b) (1) Countable income shall be determined under Section
15 1612 of the federal Social Security Act (42 U.S.C. Sec. 1382a),
16 except that the individual's disability income, including all federal
17 and state disability benefits and private disability insurance, shall
18 be exempted. Resources excluded under Section 1613 of the federal
19 Social Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.

20 (2) Resources in the form of employer or individual retirement
21 arrangements authorized under the Internal Revenue Code shall
22 be exempted as authorized by Section 1902(r) of the federal Social
23 Security Act (42 U.S.C. Sec. 1396a(r)).

24 (c) Medi-Cal benefits provided under this chapter pursuant to
25 this section shall be available in the same amount, duration, and
26 scope as those benefits are available for persons who are eligible
27 for Medi-Cal benefits as categorically needy persons and as
28 specified in Section 14007.5.

29 (d) Individuals eligible for Medi-Cal benefits under this section
30 shall be subject to the payment of premiums determined under this
31 subdivision. The department shall establish sliding-scale premiums
32 that are based on countable income, with a minimum premium of
33 twenty dollars (\$20) per month and a maximum premium of two
34 hundred fifty dollars (\$250) per month, and shall, by regulations,
35 annually adjust the premiums. Prior to adjustment of any premiums
36 pursuant to this subdivision, the department shall submit a report
37 of proposed premium adjustments to the appropriate committees
38 of the Legislature as part of the annual budget process.

1 (e) The department shall adopt regulations specifying the process
2 for discontinuance of eligibility under this section for nonpayment
3 of premiums for more than two months by a beneficiary.

4 (f) In order to implement the collection of premiums under this
5 section, the department may develop and execute a contract with
6 a public or private entity to collect premiums, or may amend any
7 existing or future premium-collection contract that it has executed.
8 Notwithstanding any other provision of law, any contract developed
9 and executed or amended pursuant to this subdivision is exempt
10 from the approval of the Director of General Services and from
11 the Public Contract Code.

12 (g) Notwithstanding the rulemaking provisions of Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code, the department shall implement,
15 without taking any regulatory action, this section by means of an
16 all-county letter or similar instruction. Thereafter, the department
17 shall adopt regulations in accordance with the requirements of
18 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
19 3 of Title 2 of the Government Code.

20 (h) Notwithstanding any other provision of law, this section
21 shall be implemented only if, and to the extent that, the department
22 determines that federal financial participation is available pursuant
23 to Title XIX of the federal Social Security Act (42 U.S.C. Sec.
24 1396 et seq.).

25 (i) Subject to subdivision (h), this section shall be implemented
26 commencing April 1, 2000.

27 SEC. 200. Section 14011.16 of the Welfare and Institutions
28 Code is amended to read:

29 14011.16. (a) Commencing August 1, 2003, the department
30 shall implement a requirement for beneficiaries to file semiannual
31 status reports as part of the department's procedures to ensure that
32 beneficiaries make timely and accurate reports of any change in
33 circumstance that may affect their eligibility. The department shall
34 develop a simplified form to be used for this purpose. The
35 department shall explore the feasibility of using a form that allows
36 a beneficiary who has not had any changes to so indicate by
37 checking a box and signing and returning the form.

38 (b) Beneficiaries who have been granted continuous eligibility
39 under Section 14005.25 shall not be required to submit semiannual
40 status reports. To the extent federal financial participation is

1 available, all children under 19 years of age shall be exempt from
2 the requirement to submit semiannual status reports.

3 (c) For any period of time that the continuous eligibility period
4 described in paragraph (1) of subdivision (a) of Section 14005.25
5 is reduced to six months, subdivision (b) shall become inoperative,
6 and all children under 19 years of age shall be required to file
7 semiannual status reports.

8 (d) Beneficiaries whose eligibility is based on a determination
9 of disability or on their status as aged or blind shall be exempt
10 from the semiannual status report requirement described in
11 subdivision (a). The department may exempt other groups from
12 the semiannual status report requirement as necessary for simplicity
13 of administration.

14 (e) When a beneficiary has completed, signed, and filed a
15 semiannual status report that indicated a change in circumstance,
16 eligibility shall be redetermined.

17 (f) Notwithstanding Chapter 3.5 (commencing with Section
18 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
19 the department shall implement this section by means of all-county
20 letters or similar instructions without taking regulatory action.
21 Thereafter, the department shall adopt regulations in accordance
22 with the requirements of Chapter 3.5 (commencing with Section
23 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

24 (g) This section shall be implemented only if and to the extent
25 federal financial participation is available.

26 SEC. 201. Section 14091.3 of the Welfare and Institutions
27 Code is amended to read:

28 14091.3. (a) For purposes of this section, the following
29 definitions shall apply:

30 (1) “Medi-Cal managed care plan contracts” means those
31 contracts entered into with the department by any individual,
32 organization, or entity pursuant to Article 2.7 (commencing with
33 Section 14087.3), Article 2.8 (commencing with Section 14087.5),
34 Article 2.91 (commencing with Section 14089), or Article 1
35 (commencing with Section 14200) or Article 7 (commencing with
36 Section 14490) of Chapter 8, or Chapter 8.75 (commencing with
37 Section 14590).

38 (2) “Medi-Cal managed care health plan” means an individual,
39 organization, or entity operating under a Medi-Cal managed care
40 plan contract with the department under this chapter, Chapter 8

1 (commencing with Section 14200), or Chapter 8.75 (commencing
2 with Section 14590).

3 (b) The department shall take all appropriate steps to amend the
4 Medicaid State Plan, if necessary, to carry out this section. This
5 section shall be implemented only to the extent that federal
6 financial participation is available. The department shall adopt
7 rules and regulations to carry out this section. Until January 1,
8 2010, any rules and regulations adopted pursuant to this subdivision
9 may be adopted as emergency regulations in accordance with the
10 Administrative Procedure Act (Chapter 3.5 (commencing with
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
12 Code). The adoption of these regulations shall be deemed an
13 emergency and necessary for the immediate preservation of the
14 public peace, health, and safety or general welfare. The regulations
15 shall become effective immediately upon filing with the Secretary
16 of State.

17 (c) Any hospital that does not have in effect a contract with a
18 Medi-Cal managed care health plan, as defined in paragraph (2)
19 of subdivision (a), that establishes payment amounts for services
20 furnished to a beneficiary enrolled in that plan shall accept as
21 payment in full, from all these plans, the following amounts:

22 (1) For outpatient services, the Medi-Cal Fee-For-Service (FFS)
23 payment amounts.

24 (2) For emergency inpatient services, the average per diem
25 contract rate specified in paragraph (2) of subdivision (b) of Section
26 14166.245, except that the payment amount shall not be reduced
27 by 5 percent. For the purposes of this paragraph, this payment
28 amount shall apply to all hospitals, including hospitals that contract
29 with the department under the Medi-Cal Selective Provider
30 Contracting Program described in Article 2.6 (commencing with
31 Section 14081), and small and rural hospitals specified in Section
32 124840 of the Health and Safety Code.

33 (3) For poststabilization services following an emergency
34 admission, payment amounts shall be consistent with subdivision
35 (e) of Section 438.114 of Title 42 of the Code of Federal
36 Regulations. This paragraph shall only be implemented to the
37 extent that contract amendment language providing for these
38 payments is approved by CMS. For purposes of this paragraph,
39 this payment amount shall apply to all hospitals, including hospitals
40 that contract with the department under the Medi-Cal Selective

1 Provider Contracting Program pursuant to Article 2.6 (commencing
2 with Section 14081).

3 (d) Medi-Cal managed care health plans that, pursuant to the
4 department's encouragement in All Plan Letter 07003, have been
5 paying out-of-network hospitals the most recent California Medical
6 Assistance Commission regional average per diem rate as a
7 temporary rate for purposes of Section 1932(b)(2)(D) of the Social
8 Security Act (SSA), which became effective January 1, 2007, shall
9 make reconciliations and adjustments for all hospital payments
10 made since January 1, 2007, based upon rates published by the
11 department pursuant to Section 1932(b)(2)(D) of the SSA and
12 effective January 1, 2007, to June 30, 2008, inclusive, and, if
13 applicable, provide supplemental payments to hospitals as
14 necessary to make payments that conform with Section
15 1932(b)(2)(D) of the SSA. In order to provide managed care health
16 plans with 60 working days to make any necessary supplemental
17 payments to hospitals prior to these payments becoming subject
18 to the payment of interest, Section 1300.71 of Title 28 of the
19 California Code of Regulations shall not apply to these
20 supplemental payments until 30 working days following the
21 publication by the department of the rates.

22 (e) (1) The department shall provide a written report to the
23 policy and fiscal committees of the Legislature on October 1, 2009,
24 and May 1, 2010, on the implementation and impact made by this
25 section, including the impact of these changes on access to
26 hospitals by managed care enrollees and on contracting between
27 hospitals and managed care health plans, including the increase
28 or decrease in the number of these contracts.

29 (2) Not later than August 1, 2010, the department shall report
30 to the Legislature on the implementation of this section. The report
31 shall include, but not be limited to, information and analyses
32 addressing managed care enrollee access to hospital services, the
33 impact of this section on managed care health plan capitation rates,
34 the impact of this section on the extent of contracting between
35 managed care health plans and hospitals, and fiscal impact on the
36 state.

37 (3) For the purposes of preparing the annual status reports and
38 the final evaluation report required pursuant to this subdivision,
39 Medi-Cal managed care health plans shall provide the department
40 with all data and documentation, including contracts with providers,

1 including hospitals, as deemed necessary by the department to
2 evaluate the impact of the implementation of this section. In order
3 to ensure the confidentiality of managed care health plan
4 proprietary information, and thereby enable the department to have
5 access to all of the data necessary to provide the Legislature with
6 accurate and meaningful information regarding the impact of this
7 section, all information and documentation provided to the
8 department pursuant to this section shall be considered proprietary
9 and shall be exempt from disclosure as official information
10 pursuant to subdivision (k) of Section 6254 of the Government
11 Code as contained in the California Public Records Act (Division
12 7 (commencing with Section 6250) of Title 1 of the Government
13 Code).

14 (f) This section shall remain in effect only until January 1, 2011,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2011, deletes or extends that date.

17 SEC. 202. Section 14105.19 of the Welfare and Institutions
18 Code is amended to read:

19 14105.19. (a) Notwithstanding any other provision of law, in
20 order to implement changes in the level of funding for health care
21 services, the director shall reduce provider payments as specified
22 in this section.

23 (b) (1) Except as provided in subdivision (c), payments shall
24 be reduced by 10 percent for Medi-Cal fee-for-service benefits for
25 dates of service on and after July 1, 2008, through and including
26 dates of service on February 28, 2009.

27 (2) Except as provided in subdivision (c), payments shall be
28 reduced by 10 percent for non-Medi-Cal programs described in
29 Article 6 (commencing with Section 124025) of Chapter 3 of Part
30 2 of Division 106 of the Health and Safety Code, and Section
31 14105.18 of this code, for dates of service on and after July 1,
32 2008, through and including dates of service on February 28, 2009.

33 (3) For managed health care plans that contract with the
34 department pursuant to this chapter, Chapter 8 (commencing with
35 Section 14200), and Chapter 8.75 (commencing with Section
36 14590), payments shall be reduced by the actuarial equivalent
37 amount of the payment reduction specified in this subdivision
38 pursuant to contract amendments or change orders effective on
39 July 1, 2008.

1 (4) Notwithstanding paragraphs (1) and (2), payment reductions
2 set forth in this subdivision shall apply to small and rural hospitals,
3 as defined in Section 124840 of the Health and Safety Code, for
4 dates of service on and after July 1, 2008, through and including
5 October 31, 2008.

6 (c) The services listed in this subdivision shall be exempt from
7 the payment reductions specified in subdivision (b):

8 (1) Acute hospital inpatient services, except for payments to
9 hospitals not under contract with the State Department of Health
10 Care Services, as provided in Section 14166.245.

11 (2) Federally qualified health center services, including those
12 facilities deemed to have federally qualified health center status
13 pursuant to a waiver under subdivision (a) of Section 1315 of Title
14 42 of the United States Code.

15 (3) Rural health clinic services.

16 (4) All of the following facilities:

17 (A) A skilled nursing facility licensed pursuant to subdivision
18 (c) of Section 1250 of the Health and Safety Code, except a skilled
19 nursing facility that is a distinct part of a general acute care
20 hospital. For purposes of this paragraph, “distinct part” has the
21 same meaning as defined in Section 72041 of Title 22 of the
22 California Code of Regulations.

23 (B) An intermediate care facility for the developmentally
24 disabled licensed pursuant to subdivision (e), (g), or (h) of Section
25 1250 of the Health and Safety Code, or a facility providing
26 continuous skilled nursing care to developmentally disabled
27 individuals pursuant to the pilot project established by Section
28 14495.10.

29 (C) A subacute care unit, as defined in Section 51215.5 of Title
30 22 of the California Code of Regulations.

31 (5) Payments to facilities owned or operated by the State
32 Department of Mental Health or the State Department of
33 Developmental Services.

34 (6) Hospice.

35 (7) Contract services as designated by the director pursuant to
36 subdivision (e).

37 (8) Payments to providers to the extent that the payments are
38 funded by means of a certified public expenditure or an
39 intergovernmental transfer pursuant to Section 433.51 of Title 42
40 of the Code of Federal Regulations.

1 (9) Services pursuant to local assistance contracts and
2 interagency agreements to the extent the funding is not included
3 in the funds appropriated to the department in the annual Budget
4 Act.

5 (10) Payments to Medi-Cal managed care plans pursuant to
6 Section 4474.5 for services to consumers transitioning from
7 Agnews Developmental Center into Alameda, San Mateo, and
8 Santa Clara Counties pursuant to the Plan for the Closure of
9 Agnews Developmental Center.

10 (11) Breast and cervical cancer treatment provided pursuant to
11 Section 14007.71.

12 (12) The Family Planning, Access, Care, and Treatment (Family
13 PACT) Waiver Program pursuant to Section 14105.18.

14 (d) Subject to the exception for services listed in subdivision
15 (c), the payment reductions required by subdivision (b) shall apply
16 to the services rendered by any provider who may be authorized
17 to bill for the service, including, but not limited to, physicians,
18 podiatrists, nurse practitioners, certified nurse-midwives, nurse
19 anesthetists, and organized outpatient clinics.

20 (e) Notwithstanding Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
22 the department may implement this section by means of a provider
23 bulletin, or similar instruction, without taking regulatory action.

24 (f) The reductions described in this section shall apply only to
25 payments for services when the General Fund share of the payment
26 is paid with funds directly appropriated to the department in the
27 annual Budget Act and shall not apply to payments for services
28 paid with funds appropriated to other departments or agencies.

29 (g) The department shall promptly seek any necessary federal
30 approvals for the implementation of this section.

31 SEC. 203. Section 14105.191 of the Welfare and Institutions
32 Code is amended to read:

33 14105.191. (a) Notwithstanding any other provision of law,
34 in order to implement changes in the level of funding for health
35 care services, the director shall reduce provider payments, as
36 specified in this section.

37 (b) (1) Except as otherwise provided in this section, payments
38 shall be reduced by 1 percent for Medi-Cal fee-for-service benefits
39 for dates of service on and after March 1, 2009.

1 (2) Except as provided in subdivision (d), for dates of service
2 on and after March 1, 2009, payments to the following classes of
3 providers shall be reduced by 5 percent for Medi-Cal
4 fee-for-service benefits:

5 (A) Intermediate care facilities, excluding those facilities
6 identified in paragraph (5) of subdivision (d). For purposes of this
7 section, “intermediate care facility” has the same meaning as
8 defined in Section 51118 of Title 22 of the California Code of
9 Regulations.

10 (B) Skilled nursing facilities that are distinct parts of general
11 acute care hospitals. For purposes of this section, “distinct part”
12 has the same meaning as defined in Section 72041 of Title 22 of
13 the California Code of Regulations.

14 (C) Rural swing-bed facilities.

15 (D) Subacute care units that are, or are parts of, distinct parts
16 of general acute care hospitals. For purposes of this subparagraph,
17 “subacute care unit” has the same meaning as defined in Section
18 51215.5 of Title 22 of the California Code of Regulations.

19 (E) Pediatric subacute care units that are, or are parts of, distinct
20 parts of general acute care hospitals. For purposes of this
21 subparagraph, “pediatric subacute care unit” has the same meaning
22 as defined in Section 51215.8 of Title 22 of the California Code
23 of Regulations.

24 (F) Adult day health care centers.

25 (3) Except as provided in subdivision (d), for dates of service
26 on and after March 1, 2009, Medi-Cal fee-for-service payments
27 to pharmacies shall be reduced by 5 percent.

28 (4) Except as provided in subdivision (d), payments shall be
29 reduced by 1 percent for non-Medi-Cal programs described in
30 Article 6 (commencing with Section 124025) of Chapter 3 of Part
31 2 of Division 106 of the Health and Safety Code, and Section
32 14105.18 of this code, for dates of service on and after March 1,
33 2009.

34 (5) For managed health care plans that contract with the
35 department pursuant to this chapter, Chapter 8 (commencing with
36 Section 14200), and Chapter 8.75 (commencing with Section
37 14590), payments shall be reduced by the actuarial equivalent
38 amount of the payment reductions specified in this subdivision
39 pursuant to contract amendments or change orders effective on
40 July 1, 2008, or thereafter.

1 (c) Notwithstanding any other provision of this section,
2 payments to hospitals that are not under contract with the State
3 Department of Health Care Services pursuant to Article 2.6
4 (commencing with Section 14081) for inpatient hospital services
5 provided to Medi-Cal beneficiaries and that are subject to Section
6 14166.245 shall be governed by that section.

7 (d) To the extent applicable, the services, facilities, and
8 payments listed in this subdivision shall be exempt from the
9 payment reductions specified in subdivision (b):

10 (1) Acute hospital inpatient services that are paid under contracts
11 pursuant to Article 2.6 (commencing with Section 14081).

12 (2) Federally qualified health center services, including those
13 facilities deemed to have federally qualified health center status
14 pursuant to a waiver pursuant to subsection (a) of Section 1115 of
15 the federal Social Security Act (42 U.S.C. Sec. 1315(a)).

16 (3) Rural health clinic services.

17 (4) Skilled nursing facilities licensed pursuant to subdivision
18 (c) of Section 1250 of the Health and Safety Code other than those
19 specified in paragraph (2) of subdivision (b).

20 (5) Intermediate care facilities for the developmentally disabled
21 licensed pursuant to subdivision (e), (g), or (h) of Section 1250 of
22 the Health and Safety Code, or facilities providing continuous
23 skilled nursing care to developmentally disabled individuals
24 pursuant to the pilot project established by Section 14495.10.

25 (6) Payments to facilities owned or operated by the State
26 Department of Mental Health or the State Department of
27 Developmental Services.

28 (7) Hospice services.

29 (8) Contract services, as designated by the director pursuant to
30 subdivision (f).

31 (9) Payments to providers to the extent that the payments are
32 funded by means of a certified public expenditure or an
33 intergovernmental transfer pursuant to Section 433.51 of Title 42
34 of the Code of Federal Regulations.

35 (10) Services pursuant to local assistance contracts and
36 interagency agreements to the extent the funding is not included
37 in the funds appropriated to the department in the annual Budget
38 Act.

39 (11) Payments to Medi-Cal managed care plans pursuant to
40 Section 4474.5 for services to consumers transitioning from

1 Agnews Developmental Center into the Counties of Alameda, San
2 Mateo, and Santa Clara pursuant to the Plan for the Closure of
3 Agnews Developmental Center.

4 (12) Breast and cervical cancer treatment provided pursuant to
5 Section 14007.71 and as described in paragraph (3) of subdivision
6 (a) of Section 14105.18 or Article 1.5 (commencing with Section
7 104160) of Chapter 2 of Part 1 of Division 103 of the Health and
8 Safety Code.

9 (13) The Family Planning, Access, Care, and Treatment (Family
10 PACT) Waiver Program pursuant to Section 14105.18.

11 (14) Small and rural hospitals, as defined in Section 124840 of
12 the Health and Safety Code.

13 (e) Subject to the exemptions listed in subdivision (d), the
14 payment reductions required by paragraph (1) of subdivision (b)
15 shall apply to the benefits rendered by any provider who may be
16 authorized to bill for provision of the benefit, including, but not
17 limited to, physicians, podiatrists, nurse practitioners, certified
18 nurse-midwives, nurse anesthetists, and organized outpatient
19 clinics.

20 (f) Notwithstanding Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
22 the department may implement and administer this section by
23 means of provider bulletins, or similar instructions, without taking
24 regulatory action.

25 (g) The reductions described in this section shall apply only to
26 payments for benefits when the General Fund share of the payment
27 is paid with funds directly appropriated to the department in the
28 annual Budget Act, and shall not apply to payments for benefits
29 paid with funds appropriated to other departments or agencies.

30 (h) The department shall promptly seek any necessary federal
31 approvals for the implementation of this section. To the extent that
32 federal financial participation is not available with respect to any
33 payment that is reduced pursuant to this section, the director may
34 elect not to implement such reduction.

35 SEC. 204. Section 14105.3 of the Welfare and Institutions
36 Code is amended to read:

37 14105.3. (a) The department is considered to be the purchaser,
38 but not the dispenser or distributor, of prescribed drugs under the
39 Medi-Cal program for the purpose of enabling the department to
40 obtain from manufacturers of prescribed drugs the most favorable

1 price for those drugs furnished by one or more manufacturers,
2 based upon the large quantity of the drugs purchased under the
3 Medi-Cal program, and to enable the department, notwithstanding
4 any other provision of state law, to obtain from the manufacturers
5 discounts, rebates, or refunds based on the quantities purchased
6 under the program, insofar as may be permissible under federal
7 law. Nothing in this section shall interfere with usual and
8 customary distribution practices in the drug industry.

9 (b) The department may enter into exclusive or nonexclusive
10 contracts on a bid or negotiated basis with manufacturers,
11 distributors, dispensers, or suppliers of appliances, durable medical
12 equipment, medical supplies, and other product-type health care
13 services and with laboratories for clinical laboratory services for
14 the purpose of obtaining the most favorable prices to the state and
15 to assure adequate quality of the product or service. Except as
16 provided in subdivision (f), this subdivision shall not apply to
17 prescribed drugs dispensed by pharmacies licensed pursuant to
18 Article 7 (commencing with Section 4110) of Chapter 9 of Division
19 2 of the Business and Professions Code.

20 (c) Notwithstanding subdivision (b), the department may not
21 enter into a contract with a clinical laboratory unless the clinical
22 laboratory operates in conformity with Chapter 3 (commencing
23 with Section 1200) of Division 2 of the Business and Professions
24 Code and the regulations adopted thereunder, and Section 263a of
25 Title 42 of the United States Code and the regulations adopted
26 thereunder.

27 (d) The department shall contract with manufacturers of
28 single-source drugs on a negotiated basis, and with manufacturers
29 of multisource drugs on a bid or negotiated basis.

30 (e) In order to ensure and improve access by Medi-Cal
31 beneficiaries to both hearing aid appliances and provider services,
32 and to ensure that the state obtains the most favorable prices, the
33 department, by June 30, 2008, shall enter into exclusive or
34 nonexclusive contracts, on a bid or negotiated basis, for purchasing
35 hearing aid appliances.

36 (f) In order to provide specialized care in the distribution of
37 specialized drugs, as identified by the department and that include,
38 but are not limited to, blood factors and immunizations, the
39 department may enter into contracts with providers licensed to
40 dispense dangerous drugs or devices pursuant to Chapter 9

1 (commencing with Section 4000) of Division 2 of the Business
2 and Professions Code, for programs that qualify for federal funding
3 pursuant to the medicaid state plan, or waivers and the programs
4 authorized by Article 5 (commencing with Section 123800) of
5 Chapter 3 of Part 2 of, and Article 1 (commencing with Section
6 125125) of Chapter 2 of Part 5 of, Division 106 of the Health and
7 Safety Code, in accordance with this subdivision.

8 (1) The department shall, for purposes of ensuring proper patient
9 care, consult current standards of practice when executing a
10 provider contract.

11 (2) The department shall, for purposes of ensuring quality of
12 care to people with unique conditions requiring specialty drugs,
13 contract with a nonexclusive number of providers that meets the
14 needs of the affected population, covers all geographic regions in
15 California, and reflects the distribution of the specialty drug in the
16 community. The department may use a single provider in the event
17 the product manufacturer designates a sole-source delivery
18 mechanism. The department shall consult with interested parties
19 and appropriate stakeholders in implementing this section with
20 respect to all of the following:

21 (A) Notifying stakeholder representatives of the potential
22 inclusion or exclusion of drugs in the specialty pharmacy program.

23 (B) Allowing for written input regarding the potential inclusion
24 or exclusion of drugs into the specialty pharmacy program.

25 (C) Scheduling at least one public meeting regarding the
26 potential inclusion or exclusion of drugs into the specialty
27 pharmacy program.

28 (D) Obtaining a recommendation from the Medi-Cal Drug
29 Utilization Review Advisory Committee, established pursuant to
30 Section 1927 of the federal Social Security Act (42 U.S.C. Sec.
31 1396r-8), on the inclusion or exclusion of drugs into the specialty
32 pharmacy program distribution based on clinical best practices
33 related to each drug considered.

34 (3) For purposes of this subdivision, the definition of “blood
35 factors” has the same meaning as that term is defined in Section
36 14105.86.

37 (4) The department shall make every reasonable effort to ensure
38 all medically necessary clotting factor therapies are available for
39 the treatment of people with bleeding disorders.

1 (5) The department shall generate an annual report, published
2 publicly six months after the end of the first and second years after
3 implementation, which shall include, but not be limited to, all of
4 the following information:

5 (A) The number and geographic distribution of participating
6 providers.

7 (B) The number and geographic distribution of beneficiaries
8 receiving specialty drugs, including on a per-provider basis.

9 (C) A summary of problems and complaints received regarding
10 the specialty pharmacy program.

11 (D) An evaluation of hospital and emergency services before
12 and after implementation for the targeted patient population.

13 (E) Results of patient satisfaction surveys.

14 (F) The cost-effectiveness of the program.

15 (6) This subdivision shall become inoperative three years after
16 the date of implementation, as provided pursuant to a notice to the
17 public issued by the department, or until July 1, 2013, whichever
18 is earlier.

19 (g) The department may contract with an intermediary to
20 establish provider contracts pursuant to this section for programs
21 that qualify for federal funding pursuant to the medicaid state plan
22 or waivers and the programs authorized by Article 5 (commencing
23 with Section 123800) of Chapter 3 of Part 2 of, and Article 1
24 (commencing with Section 125125) of Chapter 2 of Part 5 of,
25 Division 106 of the Health and Safety Code.

26 (h) In carrying out contracting activity for this or any section
27 associated with the Medi-Cal list of contract drugs, notwithstanding
28 Section 19130 of the Government Code, the department may
29 contract, either directly or through the fiscal intermediary, for
30 pharmacy consultant staff necessary to accomplish the contracting
31 process or treatment authorization request reviews. The fiscal
32 intermediary contract, including any contract amendment, system
33 change pursuant to a change order, and project or systems
34 development notice shall be exempt from Part 2 (commencing
35 with Section 10100) of Division 2 of the Public Contract Code
36 and any policies, procedures, or regulations authorized by these
37 provisions.

38 (i) In order to achieve maximum cost savings the Legislature
39 hereby determines that an expedited contract process for contracts
40 under this section is necessary. Therefore contracts under this

1 section shall be exempt from Chapter 2 (commencing with Section
2 10290) of Part 2 of Division 2 of the Public Contract Code.

3 (j) For purposes of implementing the contracting provisions
4 specified in this section, the department shall do all of the
5 following:

6 (1) Ensure adequate access for Medi-Cal patients to quality
7 laboratory testing services in the geographic regions of the state
8 where contracting occurs.

9 (2) Consult with the statewide association of clinical laboratories
10 and other appropriate stakeholders on the implementation of the
11 contracting provisions specified in this section to ensure maximum
12 access for Medi-Cal patients consistent with the savings targets
13 projected by the 2002–03 Budget Conference Committee for
14 clinical laboratory services provided under the Medi-Cal program.

15 (3) Consider which types of laboratories are appropriate for
16 implementing the contracting provisions specified in this section,
17 including independent laboratories, outreach laboratory programs
18 of hospital-based laboratories, clinic laboratories, physician office
19 laboratories, and group practice laboratories.

20 SEC. 205. Section 14105.86 of the Welfare and Institutions
21 Code is amended to read:

22 14105.86. (a) For the purposes of this section, the following
23 definitions apply:

24 (1) (A) “Average sales price” means the price reported to the
25 federal Centers for Medicare and Medicaid Services by the
26 manufacturer pursuant to Section 1847A of the federal Social
27 Security Act (42 U.S.C. Sec. 1395w-3a).

28 (B) “Average manufacturer price” means the price reported to
29 the federal Centers for Medicare and Medicaid Services pursuant
30 to Section 1927 of the federal Social Security Act (42 U.S.C. Sec.
31 1396r-8).

32 (2) “Blood factors” means plasma protein therapies and their
33 recombinant analogs. Blood factors include, but are not limited
34 to, all of the following:

35 (A) Coagulation factors, including:

36 (i) Factor VIII, nonrecombinant.

37 (ii) Factor VIII, porcine.

38 (iii) Factor VIII, recombinant.

39 (iv) Factor IX, nonrecombinant.

40 (v) Factor IX, complex.

1 (vi) Factor IX, recombinant.
2 (vii) Antithrombin III.
3 (viii) Anti-inhibitor factor.
4 (ix) Von Willebrand factor.
5 (x) Factor VIIa, recombinant.
6 (B) Immune Globulin Intravenous.
7 (C) Alpha-1 Proteinase Inhibitor.
8 (b) The reimbursement for blood factors shall be by national
9 drug code number and shall not exceed 120 percent of the average
10 sales price of the last quarter reported.
11 (c) The average sales price for blood factors of manufacturers
12 or distributors that do not report an average sales price pursuant
13 to subdivision (a) shall be identical to the average manufacturer
14 price. The average sales price for new products that do not have
15 a calculable average sales price or average manufacturer price
16 shall be equal to a projected sales price, as reported by the
17 manufacturer to the department. Manufacturers reporting a
18 projected sales price for a new product shall report the first monthly
19 average manufacturer price reported to the federal Centers for
20 Medicare and Medicaid Services. The reporting of an average sales
21 price that does not meet the requirement of this subdivision shall
22 result in that blood factor no longer being considered a covered
23 benefit.
24 (d) The average sales price shall be reported at the national drug
25 code level to the department on a quarterly basis.
26 (e) (1) Effective July 1, 2008, the department shall collect a
27 state rebate, in addition to rebates pursuant to other provisions of
28 state or federal law, for blood factors reimbursed pursuant to this
29 section by programs that qualify for federal drug rebates pursuant
30 to Section 1927 of the federal Social Security Act (42 U.S.C. Sec.
31 1396r-8) or otherwise qualify for federal funds under Title XIX
32 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.)
33 pursuant to the medicaid state plan or waivers and the programs
34 authorized by Article 5 (commencing with Section 123800) of
35 Chapter 3 of Part 2 of, and Article 1 (commencing with Section
36 125125) of Chapter 2 of Part 5 of, Division 106 of the Health and
37 Safety Code. The state rebate shall be negotiated as necessary
38 between the department and the manufacturer. Manufacturers who
39 do not execute an agreement to pay additional rebates pursuant to
40 this section shall have their blood factors available only through

1 an approved treatment or service authorization request. All blood
2 factors that meet the definition of a covered outpatient drug
3 pursuant to Section 1927 of the federal Social Security Act (42
4 U.S.C. Sec. 1396r-8) shall remain a benefit subject to the utilization
5 controls provided for in this section.

6 (2) In reviewing authorization requests, the department shall
7 approve the lowest net cost product that meets the beneficiary's
8 medical need. The review of medical need shall take into account
9 a beneficiary's clinical history or the use of the blood factor
10 pursuant to payment by another third party, or both.

11 (f) A beneficiary may obtain blood factors that require a
12 treatment or service authorization request pursuant to subdivision
13 (e) if the beneficiary qualifies for continuing care status. To be
14 eligible for continuing care status, a beneficiary must be taking
15 the blood factor and the department has reimbursed a claim for
16 the blood factor with a date of service that is within 100 days prior
17 to the date the blood factor was placed on treatment authorization
18 request status. A beneficiary may remain eligible for continuing
19 care status, provided that a claim is submitted for the blood factor
20 in question at least every 100 days and the date of service of the
21 claim is within 100 days of the date of service of the last claim
22 submitted for the same blood factor.

23 (g) Changes made to the list of covered blood factors under this
24 or any other section shall be exempt from the requirements of the
25 Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340), Chapter 4 (commencing with Section 11370), and
27 Chapter 5 (commencing with Section 11500) of Part 1 of Division
28 3 of Title 2 of the Government Code), and shall not be subject to
29 the review and approval of the Office of Administrative Law.

30 SEC. 206. Section 14107.2 of the Welfare and Institutions
31 Code is amended to read:

32 14107.2. (a) Any person who solicits or receives any
33 remuneration, including, but not restricted to, any kickback, bribe,
34 or rebate, directly or indirectly, overtly or covertly, in cash or in
35 valuable consideration of any kind, either:

36 (1) In return for the referral, or promised referral, of any
37 individual to a person for the furnishing or arranging for the
38 furnishing of any service or merchandise for which payment may
39 be made, in whole or in part, under this chapter or Chapter 8
40 (commencing with Section 14200); or

1 (2) In return for the purchasing, leasing, ordering, or arranging
2 for or recommending the purchasing, leasing, or ordering of any
3 goods, facility, service or merchandise for which payment may be
4 made, in whole or in part, under this chapter or Chapter 8
5 (commencing with Section 14200), is punishable upon a first
6 conviction by imprisonment in a county jail for not longer than
7 one year or state prison, or by a fine not exceeding ten thousand
8 dollars (\$10,000), or by both that imprisonment and fine. A second
9 or subsequent conviction shall be punishable by imprisonment in
10 the state prison.

11 (b) Any person who offers or pays any remuneration, including,
12 but not restricted to, any kickback, bribe, or rebate, directly or
13 indirectly, overtly or covertly, in cash or in valuable consideration
14 of any kind, either:

15 (1) To refer any individual to a person for the furnishing or
16 arranging for furnishing of any service or merchandise for which
17 payment may be made, in whole or in part, under this chapter or
18 Chapter 8 (commencing with Section 14200); or

19 (2) To purchase, lease, order, or arrange for or recommend the
20 purchasing, leasing, or ordering of any goods, facility, service, or
21 merchandise for which payment may be made, in whole or in part,
22 under this chapter or Chapter 8 (commencing with Section 14200),
23 is punishable upon a first conviction by imprisonment in a county
24 jail for not longer than one year or state prison, or by a fine not
25 exceeding ten thousand dollars (\$10,000), or by both that
26 imprisonment and fine. A second or subsequent conviction shall
27 be punishable by imprisonment in the state prison.

28 (c) Subdivisions (a) and (b) shall not apply to the following:

29 (1) Any amount paid by an employer to an employee, who has
30 a bona fide employment relationship with that employer, for
31 employment with provision of covered items or services.

32 (2) A discount or other reduction in price obtained by a provider
33 of services or other entity under this chapter or Chapter 8
34 (commencing with Section 14200), if the reduction in price is
35 properly disclosed and reflected in the costs claimed or charges
36 made by the provider or entity under this chapter or Chapter 8
37 (commencing with Section 14200). This paragraph shall not apply
38 to consultant pharmaceutical services rendered to nursing facilities
39 nor to all categories of intermediate care facilities for the
40 developmentally disabled.

1 (3) The practices or transactions between a federally qualified
2 health center, as defined in Section 1396d(l)(2)(B) of Title 42 of
3 the United States Code, and any individual or entity shall be
4 permitted only to the extent sanctioned or permitted by federal
5 law.

6 (4) The provision of nonmonetary remuneration in the form of
7 hardware, software, or information technology and training
8 services, as described in subsections (x) and (y) of Section
9 1001.952 of Title 42 of the Code of Federal Regulations, as
10 amended October 4, 2007, as published in the Federal Register
11 (72 Fed. Reg. 56631, 56644), and subsequently amended versions.

12 (d) For purposes of this section, “kickback” means a rebate or
13 anything of value or advantage, present or prospective, or any
14 promise or undertaking to give any rebate or thing of value or
15 advantage, with a corrupt intent to unlawfully influence the person
16 to whom it is given in actions undertaken by that person in his or
17 her public, professional, or official capacity.

18 (e) The enforcement remedies provided under this section are
19 not exclusive and shall not preclude the use of any other criminal
20 or civil remedy.

21 SEC. 207. Section 14126.033 of the Welfare and Institutions
22 Code is amended to read:

23 14126.033. (a) This article, including Section 14126.031, shall
24 be funded as follows:

25 (1) General Fund moneys appropriated for purposes of this
26 article pursuant to Section 6 of the act adding this section shall be
27 used for increasing rates, except as provided in Section 14126.031,
28 for freestanding skilled nursing facilities, and shall be consistent
29 with the approved methodology required to be submitted to the
30 federal Centers for Medicare and Medicaid Services pursuant to
31 Article 7.6 (commencing with Section 1324.20) of Chapter 2 of
32 Division 2 of the Health and Safety Code.

33 (2) (A) Notwithstanding Section 14126.023, for the 2005–06
34 rate year, the maximum annual increase in the weighted average
35 Medi-Cal rate required for purposes of this article shall not exceed
36 8 percent of the weighted average Medi-Cal reimbursement rate
37 for the 2004–05 rate year as adjusted for the change in the cost to
38 the facility to comply with the nursing facility quality assurance
39 fee for the 2005–06 rate year, as required under subdivision (b) of
40 Section 1324.21 of the Health and Safety Code, plus the total

1 projected Medi-Cal cost to the facility of complying with new state
2 or federal mandates.

3 (B) Beginning with the 2006–07 rate year, the maximum annual
4 increase in the weighted average Medi-Cal reimbursement rate
5 required for purposes of this article shall not exceed 5 percent of
6 the weighted average Medi-Cal reimbursement rate for the prior
7 fiscal year, as adjusted for the projected cost of complying with
8 new state or federal mandates.

9 (C) Beginning with the 2007–08 rate year and continuing
10 through the 2008–09 rate year, the maximum annual increase in
11 the weighted average Medi-Cal reimbursement rate required for
12 purposes of this article shall not exceed 5.5 percent of the weighted
13 average Medi-Cal reimbursement rate for the prior fiscal year, as
14 adjusted for the projected cost of complying with new state or
15 federal mandates.

16 (D) For the 2009–10 and 2010–11 rate years, the maximum
17 annual increase in the weighted average Medi-Cal reimbursement
18 rate required for purposes of this article shall not exceed 5 percent
19 of the weighted average Medi-Cal reimbursement rate for the prior
20 fiscal year, as adjusted for the projected cost of complying with
21 new state or federal mandates.

22 (E) To the extent that new rates are projected to exceed the
23 adjusted limits calculated pursuant to subparagraphs (A) to (D),
24 inclusive, as applicable, the department shall adjust the increase
25 to each skilled nursing facility’s projected rate for the applicable
26 rate year by an equal percentage.

27 (b) The rate methodology shall cease to be implemented on and
28 after July 31, 2011.

29 (c) (1) It is the intent of the Legislature that the implementation
30 of this article result in individual access to appropriate long-term
31 care services, quality resident care, decent wages and benefits for
32 nursing home workers, a stable workforce, provider compliance
33 with all applicable state and federal requirements, and
34 administrative efficiency.

35 (2) Not later than December 1, 2006, the Bureau of State Audits
36 shall conduct an accountability evaluation of the department’s
37 progress toward implementing a facility-specific reimbursement
38 system, including a review of data to ensure that the new system
39 is appropriately reimbursing facilities within specified cost

1 categories and a review of the fiscal impact of the new system on
2 the General Fund.

3 (3) Not later than January 1, 2007, to the extent information is
4 available for the three years immediately preceding the
5 implementation of this article, the department shall provide baseline
6 information in a report to the Legislature on all of the following:

7 (A) The number and percent of freestanding skilled nursing
8 facilities that complied with minimum staffing requirements.

9 (B) The staffing levels prior to the implementation of this article.

10 (C) The staffing retention rates prior to the implementation of
11 this article.

12 (D) The numbers and percentage of freestanding skilled nursing
13 facilities with findings of immediate jeopardy, substandard quality
14 of care, or actual harm, as determined by the certification survey
15 of each freestanding skilled nursing facility conducted prior to the
16 implementation of this article.

17 (E) The number of freestanding skilled nursing facilities that
18 received state citations and the number and class of citations issued
19 during calendar year 2004.

20 (F) The average wage and benefits for employees prior to the
21 implementation of this article.

22 (4) Not later than January 1, 2009, the department shall provide
23 a report to the Legislature that does both of the following:

24 (A) Compares the information required in paragraph (2) to that
25 same information two years after the implementation of this article.

26 (B) Reports on the extent to which residents who had expressed
27 a preference to return to the community, as provided in Section
28 1418.81 of the Health and Safety Code, were able to return to the
29 community.

30 (5) The department may contract for the reports required under
31 this subdivision.

32 (d) This section shall become inoperative on July 31, 2011, and
33 as of January 1, 2012, is repealed, unless a later enacted statute,
34 that is enacted before January 1, 2012, deletes or extends the dates
35 on which it becomes inoperative and is repealed.

36 SEC. 208. Section 14126.034 of the Welfare and Institutions
37 Code is amended to read:

38 14126.034. (a) (1) The department shall convene a workgroup
39 of interested stakeholders to make recommendations to the

1 department to ensure compliance with the intent of this article, as
2 provided in subdivision (a) of Section 14126.02.

3 (2) (A) Interested stakeholders shall include consumers or their
4 representatives, or both, including current or former skilled nursing
5 facility residents, and family members of current or former skilled
6 nursing facility residents, or both, seniors or their representatives,
7 or both, skilled nursing facility representatives, labor
8 representatives, and people with disabilities and disability rights
9 advocates.

10 (B) A stakeholder workgroup of 18 members shall be convened
11 representing interested stakeholders from the groups listed in
12 subparagraph (A), with six members selected from each of the
13 following areas of interest:

14 (i) Consumers.

15 (ii) Skilled nursing facility labor.

16 (iii) Skilled nursing facilities.

17 (C) Interested stakeholders within each of the areas of interest
18 in subparagraph (B) shall nominate and select six members within
19 their area of interest to serve on the stakeholder workgroup to
20 represent their interests.

21 (D) The stakeholder workgroup shall also include representatives
22 from the department, the Office of the State Long-Term Care
23 Ombudsman, the State Department of Public Health, the Office
24 of Statewide Health Planning and Development, with members
25 appointed by their respective directors, or their designee, and may
26 also include legislative staff, academics, and other state department
27 representatives, including, but not limited to, representatives from
28 the California Department of Aging and the State Department of
29 Developmental Services.

30 (b) (1) Each stakeholder workgroup meeting shall be chaired
31 by a facilitator from an organization independent of the department
32 and any of the stakeholder groups, to the extent that foundation
33 funding is made available for this purpose. If no funds are made
34 available for this purpose, the department shall facilitate the
35 stakeholder workgroup meetings.

36 (2) The consumers, skilled nursing facility labor, and skilled
37 nursing facility stakeholder workgroup members shall each select
38 one representative who will meet with the department and the
39 facilitator to develop meeting agendas after having solicited input
40 from each representative's respective stakeholder group.

1 (3) To the extent that foundation funding is made available,
2 stakeholder workgroup members shall receive reimbursement for
3 any actual, necessary, and reasonable expenses incurred in
4 connection with their duties as members of the workgroup.

5 (c) The department shall assign staff as needed to assist the
6 stakeholder workgroup in carrying out its responsibilities.

7 (d) In developing recommendations, the stakeholder workgroup
8 shall consider the structure of, and potential changes to, the
9 facility-specific ratesetting system, developed pursuant to Section
10 14126.023, that may improve the quality of resident care. The
11 stakeholder workgroup members may take into consideration the
12 following factors, or any other factors deemed relevant to ensure
13 the quality of resident care:

14 (1) Skilled nursing facility staffing levels, including, but not
15 limited to, compliance with existing staffing requirements.

16 (2) Skilled nursing facility staff wages and benefits, including,
17 but not limited to, geographic disparities in wages and benefits.

18 (3) Skilled nursing facility staff turnover and retention.

19 (4) Deficiency reports issued as a result of both surveys and
20 complaint investigations, to the extent that they may be disclosed
21 as public records, and the enforcement actions taken under federal
22 certification and state licensing laws and regulations.

23 (5) Skilled nursing facility compliance with assessments required
24 to ascertain residents' preference for, and ability to return to, the
25 community as required by Section 1418.81 of the Health and Safety
26 Code, including necessary followthrough to assure care necessary
27 for a resident to transition out of skilled nursing facility care and
28 into the community.

29 (6) The extent to which this article encourages compliance with
30 the United States Supreme Court decision in *Olmstead v. L.C.* ex
31 rel. *Zimring* (1999) 527 U.S. 581, including using the ratesetting
32 system to increase *Olmstead* compliance.

33 (7) Health care efficiency.

34 (8) Health care safety.

35 (9) The extent to which a pay-for-performance program may
36 contribute to improving the quality of resident care and appropriate
37 performance measures for a pay-for-performance program.

38 (10) Preventable emergency room visits and rehospitalizations.

1 (11) Resident and family satisfaction with care and resident's
2 quality of life, including improvements on ways to measure
3 satisfaction.

4 (12) Recommendations for methods to evaluate the effectiveness
5 of the facility-specific ratesetting system, defined in Section
6 14126.023, in meeting the intent of this article, pursuant to Section
7 14126.02.

8 (13) Additional quality measures, including, but not limited to,
9 adequate nutrition and ready availability of durable medical
10 equipment.

11 (e) The department shall convene the stakeholder workgroup
12 no later than one month following the effective date of this section.
13 The stakeholder workgroup shall meet a minimum of six times
14 through December 31, 2008. Subcommittees may be convened
15 and meet as necessary.

16 (f) In addition to recommendations provided during stakeholder
17 workgroup meetings, individual members of the stakeholder
18 workgroup and any other interested stakeholders may provide to
19 the department any additional written recommendations on the
20 items considered in the stakeholder workgroup meetings.

21 (g) The department shall provide technical assistance to the
22 stakeholder workgroup to evaluate the feasibility of its
23 recommendations so that the stakeholder workgroup will have the
24 benefit of the department's analysis when discussing and reviewing
25 proposed recommendations.

26 (h) The department shall review and analyze all
27 recommendations from the stakeholder workgroup, individual
28 workgroup members, and any other interested stakeholders, and,
29 no later than March 1, 2009, the department shall deliver to the
30 Legislature, both of the following:

31 (1) The complete recommendations of the stakeholder
32 workgroup, individual workgroup members, and any other
33 interested stakeholders.

34 (2) The department's analysis of the feasibility to implement
35 the proposed recommendations.

36 (i) (1) The stakeholder workgroup may continue to meet to
37 carry out its responsibilities pursuant to subdivision (d) for an
38 extension period of up to one year. During this extension period,
39 the stakeholder workgroup shall meet at least quarterly as agreed

1 by the department and those members selected pursuant to
2 paragraph (2) of subdivision (a).

3 (2) During the extension period the stakeholder workgroup’s
4 activities may include assisting the department or Legislature, or
5 both, to enact improvements to the ratesetting system.

6 (j) The department shall seek partnership with one or more
7 independent, nonprofit groups or foundations, academic
8 institutions, or governmental entities providing grants for
9 health-related activities, to support stakeholder workgroup efforts.

10 (k) The department shall seek necessary legislative changes to
11 implement the stakeholder workgroup’s recommendations that the
12 department determines are feasible to implement as part of the
13 reauthorization of this section.

14 (l) The department may meet the intent of this article, as stated
15 in subdivision (a) of Section 14126.02, by using the stakeholder
16 workgroup’s recommendations in order to design an evaluation
17 of the effectiveness of the facility-specific ratesetting system
18 established pursuant to Section 14126.023.

19 (m) Implementation and administration of this section is not
20 dependent on the availability of foundation funding.

21 SEC. 209. Section 14132.725 of the Welfare and Institutions
22 Code is amended to read:

23 14132.725. (a) Commencing July 1, 2006, to the extent that
24 federal financial participation is available, face-to-face contact
25 between a health care provider and a patient shall not be required
26 under the Medi-Cal program for teleophthalmology and
27 teledermatology by store and forward. Services appropriately
28 provided through the store and forward process are subject to
29 billing and reimbursement policies developed by the department.

30 (b) For purposes of this section, “teleophthalmology and
31 teledermatology by store and forward” means an asynchronous
32 transmission of medical information to be reviewed at a later time
33 by a physician at a distant site who is trained in ophthalmology or
34 dermatology, where the physician at the distant site reviews the
35 medical information without the patient being present in real time.
36 A patient receiving teleophthalmology or teledermatology by store
37 and forward shall be notified of the right to receive interactive
38 communication with the distant specialist physician, and shall
39 receive an interactive communication with the distant specialist
40 physician, upon request. If requested, communication with the

1 distant specialist physician may occur either at the time of the
2 consultation, or within 30 days of the patient's notification of the
3 results of the consultation.

4 (c) Notwithstanding Chapter 3.5 (commencing with Section
5 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
6 the department may implement, interpret, and make specific this
7 section by means of all-county letters, provider bulletins, and
8 similar instructions.

9 (d) On or before January 1, 2008, the department shall report
10 to the Legislature the number and type of services provided, and
11 the payments made related to the application of store and forward
12 telemedicine as provided, under this section as a Medi-Cal benefit.

13 (e) The health care provider shall comply with the informed
14 consent provisions of subdivisions (c) to (g), inclusive, of, and
15 subdivisions (i) and (j) of, Section 2290.5 of the Business and
16 Professions Code when a patient receives teleophthalmology or
17 teledermatology by store and forward.

18 (f) This section shall remain in effect only until January 1, 2013,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2013, deletes or extends that date.

21 SEC. 210. Section 14154 of the Welfare and Institutions Code
22 is amended to read:

23 14154. (a) The department shall establish and maintain a plan
24 whereby costs for county administration of the determination of
25 eligibility for benefits under this chapter shall be effectively
26 controlled within the amounts annually appropriated for that
27 administration. The plan, to be known as the County Administrative
28 Cost Control Plan, shall establish standards and performance
29 criteria, including workload, productivity, and support services
30 standards, to which counties shall adhere. The plan shall include
31 standards for controlling eligibility determination costs that are
32 incurred by performing eligibility determinations at county
33 hospitals, or that are incurred due to the outstationing of any other
34 eligibility function. Except as provided in Section 14154.15,
35 reimbursement to a county for outstationed eligibility functions
36 shall be based solely on productivity standards applied to that
37 county's welfare department office. The plan shall be part of a
38 single state plan, jointly developed by the department and the State
39 Department of Social Services, in conjunction with the counties,
40 for administrative cost control for the California Work Opportunity

1 and Responsibility to Kids (CalWORKs), Food Stamp, and Medical
2 Assistance (Medi-Cal) programs. Allocations shall be made to
3 each county and shall be limited by and determined based upon
4 the County Administrative Cost Control Plan. In administering
5 the plan to control county administrative costs, the department
6 shall not allocate state funds to cover county cost overruns that
7 result from county failure to meet requirements of the plan. The
8 department and the State Department of Social Services shall
9 budget, administer, and allocate state funds for county
10 administration in a uniform and consistent manner.

11 (b) Nothing in this section, Section 15204.5, or Section 18906
12 shall be construed so as to limit the administrative or budgetary
13 responsibilities of the department in a manner that would violate
14 Section 14100.1, and thereby jeopardize federal financial
15 participation under the Medi-Cal program.

16 (c) (1) The Legislature finds and declares that in order for
17 counties to do the work that is expected of them, it is necessary
18 that they receive adequate funding, including adjustments for
19 reasonable annual cost-of-doing-business increases. The Legislature
20 further finds and declares that linking appropriate funding for
21 county Medi-Cal administrative operations, including annual
22 cost-of-doing-business adjustments, with performance standards
23 will give counties the incentive to meet the performance standards
24 and enable them to continue to do the work they do on behalf of
25 the state. It is therefore the Legislature's intent to provide
26 appropriate funding to the counties for the effective administration
27 of the Medi-Cal program at the local level to ensure that counties
28 can reasonably meet the purposes of the performance measures as
29 contained in this section.

30 (2) It is the intent of the Legislature to not appropriate funds for
31 the cost-of-doing-business adjustment for the 2008–09 fiscal year.

32 (d) The department is responsible for the Medi-Cal program in
33 accordance with state and federal law. A county shall determine
34 Medi-Cal eligibility in accordance with state and federal law. If
35 in the course of its duties the department becomes aware of
36 accuracy problems in any county, the department shall, within
37 available resources, provide training and technical assistance as
38 appropriate. Nothing in this section shall be interpreted to eliminate
39 any remedy otherwise available to the department to enforce
40 accurate county administration of the program. In administering

1 the Medi-Cal eligibility process, each county shall meet the
2 following performance standards each fiscal year:

3 (1) Complete eligibility determinations as follows:

4 (A) Ninety percent of the general applications without applicant
5 errors and that are complete shall be completed within 45 days.

6 (B) Ninety percent of the applications for Medi-Cal based on
7 disability shall be completed within 90 days, excluding delays by
8 the state.

9 (2) (A) The department shall establish best-practice guidelines
10 for expedited enrollment of newborns into the Medi-Cal program,
11 preferably with the goal of enrolling newborns within 10 days after
12 the county is informed of the birth. The department, in consultation
13 with counties and other stakeholders, shall work to develop a
14 process for expediting enrollment for all newborns, including those
15 born to mothers receiving CalWORKs assistance.

16 (B) Upon the development and implementation of the
17 best-practice guidelines and expedited processes, the department
18 and the counties may develop an expedited enrollment timeframe
19 for newborns that is separate from the standards for all other
20 applications, to the extent that the timeframe is consistent with
21 these guidelines and processes.

22 (C) Notwithstanding the rulemaking procedures of Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code, the department may implement this
25 section by means of all-county letters or similar instructions,
26 without further regulatory action.

27 (3) Perform timely annual redeterminations, as follows:

28 (A) Ninety percent of the annual redetermination forms shall
29 be mailed to the recipient by the anniversary date.

30 (B) Ninety percent of the annual redeterminations shall be
31 completed within 60 days of the recipient's annual redetermination
32 date for those redeterminations based on forms that are complete
33 and have been returned to the county by the recipient in a timely
34 manner.

35 (C) Ninety percent of those annual redeterminations where the
36 redetermination form has not been returned to the county by the
37 recipient shall be completed by sending a notice of action to the
38 recipient within 45 days after the date the form was due to the
39 county.

1 (D) When a child is determined by the county to change from
2 no share of cost to a share of cost and the child meets the eligibility
3 criteria for the Healthy Families Program established under Section
4 12693.98 of the Insurance Code, the child shall be placed in the
5 Medi-Cal-to-Healthy Families Bridge Benefits Program, and these
6 cases shall be processed as follows:

7 (i) Ninety percent of the families of these children shall be sent
8 a notice informing them of the Healthy Families Program within
9 five working days from the determination of a share of cost.

10 (ii) Ninety percent of all annual redetermination forms for these
11 children shall be sent to the Healthy Families Program within five
12 working days from the determination of a share of cost if the parent
13 has given consent to send this information to the Healthy Families
14 Program.

15 (iii) Ninety percent of the families of these children placed in
16 the Medi-Cal-to-Healthy Families Bridge Benefits Program who
17 have not consented to sending the child's annual redetermination
18 form to the Healthy Families Program shall be sent a request,
19 within five working days of the determination of a share of cost,
20 to consent to send the information to the Healthy Families Program.

21 (E) Subparagraph (D) shall not be implemented until 60 days
22 after the Medi-Cal and Joint Medi-Cal and Healthy Families
23 applications and the Medi-Cal redetermination forms are revised
24 to allow the parent of a child to consent to forward the child's
25 information to the Healthy Families Program.

26 (e) The department shall develop procedures in collaboration
27 with the counties and stakeholder groups for determining county
28 review cycles, sampling methodology and procedures, and data
29 reporting.

30 (f) On January 1 of each year, each applicable county, as
31 determined by the department, shall report to the department on
32 the county's results in meeting the performance standards specified
33 in this section. The report shall be subject to verification by the
34 department. County reports shall be provided to the public upon
35 written request.

36 (g) If the department finds that a county is not in compliance
37 with one or more of the standards set forth in this section, the
38 county shall, within 60 days, submit a corrective action plan to the
39 department for approval. The corrective action plan shall, at a
40 minimum, include steps that the county shall take to improve its

1 performance on the standard of standards with which the county
2 is out of compliance. The plan shall establish interim benchmarks
3 for improvement that shall be expected to be met by the county in
4 order to avoid a sanction.

5 (h) (1) If a county does not meet the performance standards for
6 completing eligibility determinations and redeterminations as
7 specified in this section, the department may, at its sole discretion,
8 reduce the allocation of funds to that county in the following year
9 by 2 percent. Any funds so reduced may be restored by the
10 department if, in the determination of the department, sufficient
11 improvement has been made by the county in meeting the
12 performance standards during the year for which the funds were
13 reduced. If the county continues not to meet the performance
14 standards, the department may reduce the allocation by an
15 additional 2 percent for each year thereafter in which sufficient
16 improvement has not been made to meet the performance standards.

17 (2) No reduction of the allocation of funds to a county shall be
18 imposed pursuant to this subdivision for failure to meet
19 performance standards during any period of time in which the
20 cost-of-doing-business increase is suspended.

21 (i) The department shall develop procedures, in collaboration
22 with the counties and stakeholders, for developing instructions for
23 the performance standards established under subparagraph (D) of
24 paragraph (3) of subdivision (c), no later than September 1, 2005.

25 (j) No later than September 1, 2005, the department shall issue
26 a revised annual redetermination form to allow a parent to indicate
27 parental consent to forward the annual redetermination form to
28 the Healthy Families Program if the child is determined to have a
29 share of cost.

30 (k) The department, in coordination with the Managed Risk
31 Medical Insurance Board, shall streamline the method of providing
32 the Healthy Families Program with information necessary to
33 determine Healthy Families eligibility for a child who is receiving
34 services under the Medi-Cal-to-Healthy Families Bridge Benefits
35 Program.

36 SEC. 211. Section 14154.5 of the Welfare and Institutions
37 Code is amended to read:

38 14154.5. (a) Each county shall work, on a routine basis, any
39 error alert from the department's Medi-Cal Eligibility Data System
40 (MEDS). Any alert that affects eligibility or the share of cost that

1 is received by the 10th working day of the month shall be processed
2 in time for the change to be effective the beginning of the following
3 month. Any alert that affects eligibility or the share of cost that is
4 received after the 10th working day of the month shall be processed
5 in time for the change to be effective the beginning of the month
6 after the following month. The department shall consult with the
7 County Welfare Directors Association to define those alerts that
8 affect eligibility or the share of cost.

9 (b) The county shall submit reconciliation files of its Medi-Cal
10 eligible population to the department every three months, based
11 upon a schedule determined by the department and in a format
12 prescribed by the department, to identify any discrepancies between
13 eligibility files in the county records and eligibility as reflected in
14 MEDS. Counties shall be notified of any changes to the standard
15 format for submitting reconciliation files sufficiently in advance
16 to allow for budgeting, scheduling, development, testing, and
17 implementation of any required change in county automated
18 eligibility systems.

19 (c) For those records that are on the county's files, but not on
20 MEDS, the county shall receive worker alerts from the department
21 that identify these cases, and the county shall fix any data
22 discrepancies. Any worker alert received by the 10th working day
23 of the month shall be processed in time for the change to be
24 effective the beginning of the following month. Any worker alert
25 received after the 10th working day of the month shall be processed
26 in time for the change to be effective the beginning of the month
27 after the following month.

28 (d) In regard to any record that is on MEDS but not on the
29 county's file, the county shall either correct the county record or
30 MEDS, whichever is appropriate, within the same timeframes
31 specified in subdivision (c).

32 (e) The department shall terminate a MEDS-eligible record if
33 the person is not eligible on the county's file when there has been
34 no eligibility update on the MEDS record for six months.

35 (f) (1) If the department finds that a county is not performing
36 all of the following activities, the county shall, within 60 days,
37 submit a corrective action plan to the department for approval:

38 (A) Conducting reconciliations as required in subdivision (b).

39 (B) Processing 95 percent of worker alerts referred to in
40 subdivisions (c) and (d), within the timeframes specified.

1 (C) Processing 90 percent of the error alerts referred to in
2 subdivision (a) that affect eligibility or the share of cost, within
3 the timeframes specified.

4 (2) The corrective action plan shall, at a minimum, include steps
5 that the county shall take to improve its performance on the
6 requirements with which the county is out of compliance. The plan
7 shall establish interim benchmarks for improvement that shall be
8 expected to be met by the county in order to avoid sanctions.

9 (g) (1) If the county does not meet the interim benchmarks for
10 improvement standards, the department may, in its sole discretion,
11 reduce the allocation of funds to that county in the following year
12 by 2 percent. Any funds so reduced may be restored by the
13 department if, in the determination of the department, sufficient
14 improvement has been made by the county in meeting the
15 performance standards during the year for which the funds were
16 reduced.

17 (2) No reduction of the allocation of funds to a county shall be
18 imposed pursuant to this subdivision for failure to meet
19 performance standards during any period of time in which the
20 cost-of-doing-business increase is suspended.

21 (h) The department, in consultation with the County Welfare
22 Directors Association, shall investigate features that could be
23 installed in MEDS to reduce the number of alerts and streamline
24 the reconciliation process.

25 (i) Notwithstanding the rulemaking provisions of Chapter 3.5
26 (commencing with Section 11340) of Part 1 of Division 3 of Title
27 2 of the Government Code, the department may implement,
28 interpret, or make specific this section by means of all-county
29 letters, provider bulletins, or similar instructions. Thereafter, the
30 department may adopt regulations in accordance with the
31 requirements of Chapter 3.5 (commencing with Section 11340) of
32 Part 1 of Division 3 of Title 2 of the Government Code.

33 SEC. 212. Section 14166.9 of the Welfare and Institutions
34 Code is amended to read:

35 14166.9. (a) The department, in consultation with the
36 designated public hospitals, shall determine the mix of sources of
37 federal funds for payments to the designated public hospitals in a
38 manner that provides baseline funding to hospitals and maximizes
39 federal Medicaid funding to the state during the term of the

1 demonstration project. Federal funds shall be claimed according
2 to the following priorities:

3 (1) The certified public expenditures of the designated public
4 hospitals for inpatient hospital services and physician and
5 nonphysician practitioner services, as identified in subdivision (e)
6 of Section 14166.4, rendered to Medi-Cal beneficiaries.

7 (2) Federal disproportionate share hospital allotment, subject
8 to the federal hospital-specific limit, in the following order:

9 (A) Those hospital expenditures that are eligible for federal
10 financial participation only from the federal disproportionate share
11 hospital allotment.

12 (B) Payments funded with intergovernmental transfers,
13 consistent with the requirements of the demonstration project, up
14 to the hospital's baseline funding amount or adjusted baseline
15 funding amount, as appropriate, for the project year.

16 (C) Any other certified public expenditures for hospital services
17 that are eligible for federal financial participation from the federal
18 disproportionate share hospital allotment.

19 (3) Safety net care pool funds, using the optimal combination
20 of hospital-certified public expenditures and certified public
21 expenditures of a hospital, or governmental entity with which the
22 hospital is affiliated, that operates nonhospital clinics or provides
23 physician, nonphysician practitioner, or other health care services
24 that are not identified as hospital services under the Special Terms
25 and Conditions for the demonstration project, except that certified
26 public expenditures reported by the County of Los Angeles or its
27 designated public hospitals shall be the exclusive source of certified
28 public expenditures for claiming those federal funds deposited in
29 the South Los Angeles Medical Services Preservation Fund under
30 Section 14166.25.

31 (4) Health care expenditures of the state that represent alternate
32 state funding mechanisms approved by the federal Centers for
33 Medicare and Medicaid Services under the demonstration project
34 as set forth in Section 14166.22.

35 (b) The department shall implement these priorities, to the extent
36 possible, in a manner that minimizes the redistribution of federal
37 funds that are based on the certified public expenditures of the
38 designated public hospitals.

39 (c) The department may adjust the claiming priorities to the
40 extent that these adjustments result in additional federal medicaid

1 funding during the term of the demonstration project or facilitate
2 the objectives of subdivision (b).

3 (d) There is hereby established in the State Treasury the
4 “Demonstration Disproportionate Share Hospital Fund.” All federal
5 funds received by the department with respect to the certified
6 public expenditures claimed pursuant to subparagraphs (A) and
7 (C) of paragraph (2) of subdivision (a) shall be transferred to the
8 fund. Notwithstanding Section 13340 of the Government Code,
9 the fund shall be continuously appropriated to the department
10 solely for the purposes specified in Section 14166.6.

11 (e) (1) Except as provided in Section 14166.25, all federal
12 safety net care pool funds claimed and received by the department
13 based on health care expenditures incurred by the designated public
14 hospitals, or other governmental entities, shall be transferred to
15 the Health Care Support Fund, established pursuant to Section
16 14166.21.

17 (2) The department shall separately identify and account for
18 federal safety net care pool funds claimed and received by the
19 department under the health care coverage initiative program
20 authorized under Part 3.5 (commencing with Section 15900) and
21 under paragraphs 43 and 44 of the Special Terms and Conditions
22 for the demonstration project.

23 (3) With respect to those funds identified under paragraph (2),
24 the department shall separately identify and account for federal
25 safety net care pool funds claimed and received for inpatient
26 hospital services rendered under the health care coverage initiative,
27 including services rendered to enrollees of a managed care
28 organization, by designated public hospitals, nondesignated public
29 hospitals, and project year private DSH hospitals.

30 SEC. 213. Section 14166.25 of the Welfare and Institutions
31 Code is amended to read:

32 14166.25. (a) The Legislature finds and declares all of the
33 following:

34 (1) In light of the closure of Los Angeles County Martin Luther
35 King, Jr.-Harbor Hospital, there is a need to ensure adequate
36 funding for continued health care services to the uninsured
37 population of South Los Angeles, including, but not limited to,
38 the Cities of Compton, Lynwood, South Gate, and Huntington
39 Park, the southern and central portions of the Cities of Los Angeles,
40 Inglewood, Gardena, and surrounding unincorporated communities.

1 (2) The state, the County of Los Angeles, and all health care
2 providers in the South Los Angeles community must work together
3 to meet the health care needs of the community until the critical
4 hospital services previously provided by Los Angeles County
5 Martin Luther King, Jr.-Harbor Hospital can be restored at this
6 location.

7 (3) The Medi-Cal Hospital/Uninsured Care Demonstration
8 Project provides a critical source of funding for services to
9 low-income communities throughout the state that are provided
10 by California's safety net hospital systems.

11 (4) The special funding provided in this section is predicated
12 on the express intent of the County of Los Angeles to restore
13 hospital services on the hospital campus, to be operated by either
14 a private or public entity. The county has undertaken a specific
15 plan to do so as quickly as possible.

16 (5) The Legislature anticipates that demonstration project funds
17 will be available to help fund the reopened hospital. The nature
18 and amount of that funding cannot be determined until the new
19 structure and operation of the hospital is known.

20 (6) As an interim response to the specific circumstances caused
21 by the closure of this hospital, and until hospital services can be
22 restored at this location, a special fund will be created to receive
23 demonstration project funding to be available to the County of Los
24 Angeles for expenditures to preserve health care services for the
25 uninsured population of South Los Angeles, as defined above.

26 (b) The South Los Angeles Medical Services Preservation Fund
27 is hereby created in the State Treasury. Notwithstanding Section
28 13340 of the Government Code, the fund shall be continuously
29 appropriated to the department for the purposes specified in this
30 section.

31 (c) Subject to the conditions in this section, a maximum amount
32 of one hundred million dollars (\$100,000,000) of the safety net
33 care pool funds claimed and received by the state that are based
34 on the certified public expenditures of the County of Los Angeles
35 or its designated public hospitals shall be transferred to the South
36 Los Angeles Medical Services Preservation Fund for each of the
37 three project years, 2007–08, 2008–09, and 2009–10.

38 (1) In the event that the director determines that any amount is
39 due to the County of Los Angeles under the demonstration project
40 for services rendered during the portion of a project year during

1 which Los Angeles County Martin Luther King, Jr.-Harbor
 2 Hospital was operational, the amount deposited in the fund under
 3 this subdivision shall be reduced by a percentage determined by
 4 reducing 100 percent by the percentage reduction in the hospital's
 5 baseline as determined under subdivision (c) of Section 14166.5
 6 for that project year.

7 (2) If, in the aggregate, the federal medical assistance percentage
 8 of the certified public expenditures reported by the County of Los
 9 Angeles and its designated public hospitals under Section 14166.8,
 10 excluding those certified public expenditures reported under
 11 paragraph (1) of subdivision (b) of Section 14166.8, in any project
 12 year do not exceed the amounts paid or payable to the county and
 13 its designated public hospitals in the aggregate under Section
 14 14166.6, excluding disproportionate share payments funded with
 15 intergovernmental transfers, Section 14166.7, and subdivision (d)
 16 for the same project year, then the amount deposited in the fund
 17 under subdivision (c) shall be reduced by the amount of excess
 18 payments over the federal medical assistance percentage of certified
 19 public expenditures.

20 (d) Moneys in the South Los Angeles Medical Services
 21 Preservation Fund shall be distributed to the County of Los Angeles
 22 in amounts equal to the costs incurred by the county, including
 23 indirect costs associated with adequately maintaining the hospital
 24 building so that it can be reopened, in providing, or compensating
 25 other providers for, health services rendered to the uninsured
 26 population of South Los Angeles, including all of the following:

27 (1) Services provided in the multiservice ambulatory care center
 28 operating on the former Los Angeles County Martin Luther King,
 29 Jr.-Harbor Hospital campus.

30 (2) Services rendered to patients in beds at other designated
 31 public hospitals operated by the County of Los Angeles that have
 32 been opened specifically for the purpose of serving patients that
 33 would have been served by the former Los Angeles County Martin
 34 Luther King, Jr.-Harbor Hospital.

35 (3) Services rendered in the county-operated health center and
 36 the comprehensive health center formerly operated under Los
 37 Angeles County Martin Luther King, Jr.-Harbor Hospital.

38 (4) Services rendered to the uninsured by other public or private
 39 health care providers for which the County of Los Angeles has
 40 agreed to pay under a contract with the provider as a result of the

1 downsizing or closure of Los Angeles County Martin Luther King,
2 Jr.-Harbor Hospital.

3 (e) As a condition for receiving distributions from the South
4 Los Angeles Medical Services Preservation Fund in any project
5 year, the County of Los Angeles shall assure the director that it
6 will not reduce the county's ongoing, systemwide financial
7 contribution to the county department of health services during
8 that project year for health care services to the uninsured.

9 (f) No funds shall be available from the South Los Angeles
10 Medical Services Preservation Fund for services rendered when a
11 hospital on the former Los Angeles County Martin Luther King,
12 Jr.-Harbor Hospital campus is certified for Medi-Cal participation.

13 (g) If the full amount of the South Los Angeles Medical Services
14 Preservation Fund for any project year is not distributed to the
15 County of Los Angeles, based on the cost of services identified in
16 subdivision (d) that were rendered during that project year, any
17 remaining amounts shall revert to the Health Care Support Fund
18 established pursuant to Section 14166.21.

19 (h) To the extent that the County of Los Angeles receives
20 distributions from the South Los Angeles Medical Services
21 Preservation Fund based on the cost of services rendered by
22 county-operated providers, or based on payments made to private
23 providers for services rendered to the uninsured population of
24 South Los Angeles, the costs of the services rendered shall not be
25 considered for purposes of any of the following determinations
26 with respect to either the county or the private provider:

27 (1) Medi-Cal payments under the selective provider contracting
28 program under Article 2.6 (commencing with Section 14081),
29 including payments to distressed hospitals under Section 14166.23.

30 (2) Baseline amounts, or adjustments thereto, under Section
31 14166.5, 14166.13, or 14166.18.

32 (3) Any other payment under Medi-Cal or other health care
33 program.

34 (i) This section shall be implemented only to the extent that the
35 director determines that it will not result in the loss of federal funds
36 under the demonstration project.

37 SEC. 214. Section 14199.2 of the Welfare and Institutions
38 Code is amended to read:

39 14199.2. (a) The pilot program provided for under this article
40 shall provide the necessary information to assess the effectiveness

1 of pharmacist care in improving health outcomes for HIV/AIDS
 2 patients. If the department determines that the pilot program has
 3 shown that HIV/AIDS-related medication therapy management
 4 service is effective at improving the health outcomes of HIV/AIDS
 5 patients and is cost effective, then the department may seek federal
 6 authorization, through a state plan amendment or medicaid waiver
 7 application, to receive federal financial participation for this
 8 service.

9 (b) The department shall implement an HIV/AIDS-related
 10 medication therapy management service pilot project in no more
 11 than 10 pharmacies.

12 (c) The selection of the pharmacy providers shall be based on
 13 all of the following:

14 (1) Percentage of HIV/AIDS patients serviced by the pharmacy.
 15 More than 90 percent of the total patients serviced by the pharmacy
 16 in the months of May, June, and July 2004, must have been
 17 HIV/AIDS patients.

18 (2) Ability of the pharmacy to immediately provide specialized
 19 services. The provider shall be required to establish specialized
 20 services with capability to implement all statutorily mandated
 21 services on the implementation date of the project. The pharmacy
 22 shall provide all the services listed in subdivision (e).

23 (3) All specialized services shall be rendered by a qualified
 24 pharmacist or other health care provider operating within his or
 25 her scope of practice. The department shall develop, in consultation
 26 with pharmacy providers, the appropriate professional
 27 qualifications needed by the pharmacists rendering services,
 28 including any continuing education requirements.

29 (d) The department shall select the first pharmacies that apply
 30 and meet the criteria specified in subdivision (c) for the pilot
 31 program.

32 (e) Pharmacies that participate in this pilot program shall provide
 33 the following services:

34 (1) Patient-specific and individualized services provided directly
 35 by a pharmacist to the patient or, in limited circumstances, the
 36 patient’s caregiver. These services are distinct from generalized
 37 patient education and information activities already required by
 38 law and provided for in the professional fee for dispensing.

39 (2) Face-to-face interaction between the patient or caregiver
 40 and the pharmacist during delivery of medication therapy

1 management services. When barriers to face-to-face communication
2 exist, patients shall have equitable access to appropriate alternative
3 delivery methods.

4 (3) Pharmacists and other qualified health care providers to
5 identify patients who should receive medication therapy
6 management services.

7 (f) The department shall consult with the pilot program
8 pharmacies to establish appropriate outcome measures and the
9 required timeframes for reporting those measures, which in no
10 case shall be less than annually. The department shall retain the
11 ability to require additional outcome measures during the course
12 of the project.

13 (g) The medication therapy management services shall be based
14 on the individual patient's needs and may include, but are not
15 limited to, the following:

16 (1) Performing or obtaining necessary assessments of the
17 patient's health status.

18 (2) Formulating a medication treatment plan.

19 (3) Selecting, initiating, modifying, or administering medication
20 therapy.

21 (4) Monitoring and evaluating the patient's response to therapy,
22 including safety and effectiveness.

23 (5) Performing a comprehensive medication review to identify,
24 resolve, and prevent medication-related problems, including
25 adverse drug events.

26 (6) Documenting the care delivered and communicating essential
27 information to the patient's other primary care providers.

28 (7) Providing verbal education and training, beyond what is
29 already required by law, that is designed to enhance patient
30 understanding and appropriate use of the patient's medications.

31 (8) Providing information, support services, and resources, such
32 as compliance packaging, designed to enhance patient adherence
33 to his or her therapeutic regimens.

34 (9) Coordinating and integrating medication therapy
35 management services within the broader health care management
36 services being provided to the patient.

37 (10) Home delivery of medications.

38 (h) Participants in this pilot program shall be paid an additional
39 dispensing fee of nine dollars and fifty cents (\$9.50) per
40 prescription for drug products added to or maintained on the

1 Medi-Cal List of Contract Drugs pursuant to Section 14105.43 for
2 services rendered on or after July 1, 2008.

3 (i) Notwithstanding any other provision of law, the department
4 shall not make any payments for services listed in subdivision (g)
5 that were rendered during any time period in which subdivision
6 (b) of Section 14105.45 has been enjoined by a court order or is
7 otherwise not in effect.

8 (j) Pilot project contracts under this section may be executed
9 on a noncompetitive bid basis and shall be exempt from the
10 requirements of Chapter 2 (commencing with Section 10290) of
11 Part 2 of Division 2 of the Public Contract Code.

12 (k) Pharmacies shall maintain a sufficient quantity of HIV/AIDS
13 medication in their inventories.

14 (l) Pharmacies shall purchase HIV medications from
15 state-licensed wholesalers.

16 SEC. 215. Section 14301.1 of the Welfare and Institutions
17 Code is amended to read:

18 14301.1. (a) For rates established on or after August 1, 2007,
19 the department shall pay capitation rates to health plans
20 participating in the Medi-Cal managed care program using actuarial
21 methods and may establish health-plan- and county-specific rates.
22 The department shall utilize a county- and model-specific rate
23 methodology to develop Medi-Cal managed care capitation rates
24 for contracts entered into between the department and any entity
25 pursuant to Article 2.7 (commencing with Section 14087.3), Article
26 2.8 (commencing with Section 14087.5), and Article 2.91
27 (commencing with Section 14089) of Chapter 7 that includes, but
28 is not limited to, all of the following:

29 (1) Health-plan-specific encounter and claims data.

30 (2) Supplemental utilization and cost data submitted by the
31 health plans.

32 (3) Fee-for-service data for the underlying county of operation
33 or other appropriate counties as deemed necessary by the
34 department.

35 (4) Department of Managed Health Care financial statement
36 data specific to Medi-Cal operations.

37 (5) Other demographic factors, such as age, gender, or
38 diagnostic-based risk adjustments, as the department deems
39 appropriate.

1 (b) To the extent that the department is unable to obtain
2 sufficient actual plan data, it may substitute plan model, similar
3 plan, or county-specific fee-for-service data.

4 (c) The department shall develop rates that include
5 administrative costs, and may apply different administrative costs
6 with respect to separate aid code groups.

7 (d) The department shall develop rates that shall include, but
8 are not limited to, assumptions for underwriting, return on
9 investment, risk, contingencies, changes in policy, and a detailed
10 review of health plan financial statements to validate and reconcile
11 costs for use in developing rates.

12 (e) The department may develop rates that pay plans based on
13 performance incentives, including quality indicators, access to
14 care, and data submission.

15 (f) The department may develop and adopt condition-specific
16 payment rates for health conditions, including, but not limited to,
17 childbirth delivery.

18 (g) (1) Prior to finalizing Medi-Cal managed care capitation
19 rates, the department shall provide health plans with information
20 on how the rates were developed, including rate sheets for that
21 specific health plan, and provide the plans with the opportunity to
22 provide additional supplemental information.

23 (2) For contracts entered into between the department and any
24 entity pursuant to Article 2.8 (commencing with Section 14087.5)
25 of Chapter 7, the department, by June 30 of each year, or, if the
26 budget has not passed by that date, no later than five working days
27 after the budget is signed, shall provide preliminary rates for the
28 upcoming fiscal year.

29 (h) For the purposes of developing capitation rates through
30 implementation of this ratesetting methodology, Medi-Cal managed
31 care health plans shall provide the department with financial and
32 utilization data in a form and substance as deemed necessary by
33 the department to establish rates. This data shall be considered
34 proprietary and shall be exempt from disclosure as official
35 information pursuant to subdivision (k) of Section 6254 of the
36 Government Code as contained in the California Public Records
37 Act (Division 7 (commencing with Section 6250) of Title 1 of the
38 Government Code).

1 (i) The department shall report, upon request, to the fiscal and
2 policy committees of the respective houses of the Legislature
3 regarding implementation of this section.

4 SEC. 216. Section 14526.1 of the Welfare and Institutions
5 Code is amended to read:

6 14526.1. (a) Initial and subsequent treatment authorization
7 requests may be granted for up to six calendar months.

8 (b) Treatment authorization requests shall be initiated by the
9 adult day health care center, and shall include all of the following:

10 (1) The signature page of the history and physical form that
11 shall serve to document the request for adult day health care
12 services. A complete history and physical form, including a request
13 for adult day health care services signed by the participant's
14 personal health care provider, shall be maintained in the
15 participant's health record. This history and physical form shall
16 be developed by the department and published in the
17 inpatient/outpatient provider manual. The department shall develop
18 this form jointly with the statewide association representing adult
19 day health care providers.

20 (2) The participant's individual plan of care, pursuant to Section
21 54211 of Title 22 of the California Code of Regulations.

22 (c) Every six months, the adult day health care center shall
23 initiate a request for an updated history and physical form from
24 the participant's personal health care provider using a standard
25 update form that shall be maintained in the participant's health
26 record. This update form shall be developed by the department for
27 that use and shall be published in the inpatient/outpatient provider
28 manual. The department shall develop this form jointly with the
29 statewide association representing adult day health care providers.

30 (d) Except for participants residing in an intermediate care
31 facility/developmentally disabled-habilitative, authorization or
32 reauthorization of an adult day health care treatment authorization
33 request shall be granted only if the participant meets all of the
34 following medical necessity criteria:

35 (1) The participant has one or more chronic or postacute
36 medical, cognitive, or mental health conditions that are identified
37 by the participant's personal health care provider as requiring one
38 or more of the following, without which the participant's condition
39 will likely deteriorate and require emergency department visits,
40 hospitalization, or other institutionalization:

- 1 (A) Monitoring.
- 2 (B) Treatment.
- 3 (C) Intervention.

4 (2) The participant has a condition or conditions resulting in
5 both of the following:

6 (A) Limitations in the performance of two or more activities of
7 daily living or instrumental activities of daily living, as those terms
8 are defined in Section 14522.3, or one or more from each category.

9 (B) A need for assistance or supervision in performing the
10 activities identified in subparagraph (A) as related to the condition
11 or conditions specified in paragraph (1) of subdivision (d). That
12 assistance or supervision shall be in addition to any other nonadult
13 day health care support the participant is currently receiving in his
14 or her place of residence.

15 (3) The participant's network of non-adult day health care center
16 supports is insufficient to maintain the individual in the community,
17 demonstrated by at least one of the following:

18 (A) The participant lives alone and has no family or caregivers
19 available to provide sufficient and necessary care or supervision.

20 (B) The participant resides with one or more related or unrelated
21 individuals, but they are unwilling or unable to provide sufficient
22 and necessary care or supervision to the participant.

23 (C) The participant has family or caregivers available, but those
24 individuals require respite in order to continue providing sufficient
25 and necessary care or supervision to the participant.

26 (4) A high potential exists for the deterioration of the
27 participant's medical, cognitive, or mental health condition or
28 conditions in a manner likely to result in emergency department
29 visits, hospitalization, or other institutionalization if adult day
30 health care services are not provided.

31 (5) The participant's condition or conditions require adult day
32 health care services specified in subdivisions (a) to (d), inclusive,
33 of Section 14550.5, on each day of attendance, that are
34 individualized and designed to maintain the ability of the
35 participant to remain in the community and avoid emergency
36 department visits, hospitalizations, or other institutionalization.

37 (e) Reauthorization of an adult day health care treatment
38 authorization request shall be granted when the criteria specified
39 in subdivision (d) or (f), as appropriate, have been met and the

1 participant's condition would likely deteriorate if the adult day
2 health care services were denied.

3 (f) For individuals residing in an intermediate care
4 facility/developmentally disabled-habilitative, authorization or
5 reauthorization of an adult day health care treatment authorization
6 request shall be granted only if the resident has disabilities and a
7 level of functioning that are of such a nature that, without
8 supplemental intervention through adult day health care, placement
9 to a more costly institutional level of care would be likely to occur.

10 SEC. 217. Section 15660 of the Welfare and Institutions Code
11 is amended to read:

12 15660. (a) The Department of Justice shall secure any criminal
13 record of a person to determine whether the person has ever been
14 convicted of a violation or attempted violation of Section 243.4
15 of the Penal Code, a sex offense against a minor, or of any felony
16 that requires registration pursuant to Section 290 of the Penal Code,
17 or whether the person has been convicted or incarcerated within
18 the last 10 years as the result of committing a violation or attempted
19 violation of Section 273a or 273d, or subdivision (a) or (b) of
20 Section 368, of the Penal Code, or as the result of committing a
21 theft, robbery, burglary, or any felony, and shall provide a
22 subsequent arrest notification pursuant to Section 11105.2 of the
23 Penal Code, if both of the following conditions are met:

24 (1) An employer of the person requests the determination and
25 submits fingerprints of the person to the Department of Justice.
26 For purposes of this paragraph, "employer" includes, but is not
27 limited to, an in-home supportive services recipient, as defined by
28 Section 12302.2, an aged or disabled adult who is ineligible for
29 benefits under Chapter 3 (commencing with Section 12000), who
30 receives care by a person as described in paragraph (2), any
31 recipient of personal care services under the Medi-Cal program
32 pursuant to Sections 14132.95 to 14132.97, inclusive, and any
33 public authority or nonprofit consortium, as described in
34 subdivision (a) of Section 12301.6.

35 (2) The person is unlicensed and provides nonmedical domestic
36 or personal care to an aged or disabled adult in the adult's own
37 home.

38 (b) (1) If it is found that the person has ever been convicted of
39 a violation or attempted violation of Section 243.4 of the Penal
40 Code, a sex offense against a minor, or of any felony which

1 requires registration pursuant to Section 290 of the Penal Code,
2 or that the person has been convicted or incarcerated within the
3 last 10 years as the result of committing a violation or attempted
4 violation of Section 273a or 273d, or subdivision (a) or (b) of
5 Section 368, of the Penal Code, or as the result of committing a
6 theft, robbery, burglary, or any felony, the Department of Justice
7 shall notify the employer of that fact. If no criminal record
8 information has been recorded, the Department of Justice shall
9 provide the employer with a statement of that fact.

10 (2) Any employer may deny employment to any person who is
11 the subject of a report under paragraph (1) when the report indicates
12 that the person has committed any of the crimes identified in
13 paragraph (1).

14 (3) Nothing in this section shall be construed to require any
15 employer to hire any person who is the subject of a report under
16 paragraph (1) when the report indicates that the person has not
17 committed any of the crimes indicated in paragraph (1).

18 (c) (1) Fingerprints shall be on a card provided by the
19 Department of Justice for the purpose of obtaining a set of
20 fingerprints. The employer shall submit the fingerprints to the
21 Department of Justice. Within 30 calendar days of the receipt of
22 the fingerprints, the Department of Justice shall notify the employer
23 of the criminal record information, as provided in this subdivision.
24 If no criminal record information has been recorded, the
25 Department of Justice shall provide the employer with a statement
26 of that fact as soon as possible, but not later than 30 calendar days
27 from the date of receipt of the fingerprints. If new fingerprints are
28 required for processing, the Department of Justice shall, as soon
29 as possible, but not later than 30 calendar days from the date of
30 receipt of the fingerprints, notify the employer that the fingerprints
31 were illegible.

32 (2) Fingerprints may be taken by any local law enforcement
33 officer or agency for purposes of paragraph (1).

34 (3) Counties shall notify any recipient of, or applicant for,
35 in-home supportive services or personal care services under the
36 Medi-Cal program, upon his or her application for in-home
37 supportive services or personal care services or during his or her
38 annual redetermination, or upon the recipient's changing providers,
39 that a criminal record check is available, and that the check can
40 be performed by the Department of Justice.

1 (d) (1) The Department of Justice shall charge a fee to the
2 employer to cover the costs of administering this section.

3 (2) (A) If the employer is an in-home supportive services
4 recipient, as defined in Section 123202.2, a recipient of personal
5 care services under the Medi-Cal program pursuant to Sections
6 14132.95 to 14132.97, inclusive, or any public authority or
7 nonprofit consortium as described in subdivision (a) of Section
8 12301.6, the fee shall be shared by the county and the state in the
9 same ratio as described in Section 12306.

10 (B) (i) Notwithstanding any other provision of law, and except
11 as provided in clause (ii), the department shall, no later than
12 January 1, 2009, implement subparagraph (A) through an all-county
13 letter from the director.

14 (ii) No later than July 1, 2009, the department shall adopt
15 regulations to implement the provisions listed in subparagraph
16 (A).

17 (e) It is the intent of the Legislature that the Department of
18 Justice charge a fee to cover its cost in providing services in
19 accordance with this section to comply with the 30-calendar-day
20 requirement for provision to the department of the criminal record
21 information, as contained in subdivision (c).

22 SEC. 218. Section 5 of Chapter 898 of the Statutes of 1997,
23 as amended by Section 1 of Chapter 318 of the Statutes of 2008,
24 is amended to read:

25 Sec. 5. (a) Notwithstanding Article 2 (commencing with
26 Section 33110) of Chapter 2 of Part 1 of Division 24 of the Health
27 and Safety Code, the legislative body of the City and County of
28 San Francisco may, by resolution, designate the authority or any
29 successor entity or agency of the authority as the redevelopment
30 agency with all of the rights, powers, privileges, immunities,
31 authorities, and duties granted to a redevelopment agency pursuant
32 to Part 1 (commencing with Section 33000) of Division 24 of the
33 Health and Safety Code, for the purpose of acquiring, using,
34 operating, maintaining, converting, and redeveloping the property.
35 Upon adoption of that resolution, the authority shall be considered
36 a redevelopment agency for all purposes under state law, including,
37 but not limited to, the purposes of Section 21090 of the Public
38 Resources Code.

39 (b) Notwithstanding any state or local law, including, without
40 limitation, Section 33111 of the Health and Safety Code, the board

1 of directors of the authority may include individuals who are
2 officers or employees of the City and County of San Francisco or
3 of the San Francisco Redevelopment Agency and those individuals
4 are not precluded, solely by virtue of their status as officers or
5 employees of the City and County of San Francisco or the San
6 Francisco Redevelopment Agency, from participating in decisions
7 as members of the board of directors.

8 (c) Notwithstanding Section 1090 of the Government Code and
9 Section C8.105 of Appendix C of the San Francisco Charter,
10 officers and employees of the City and County of San Francisco
11 or the San Francisco Redevelopment Agency are not precluded,
12 solely by virtue of their services as members of the board of
13 directors, from participating in any decisions in their capacities as
14 officers or employees of the City and County of San Francisco or
15 the San Francisco Redevelopment Agency.

16 (d) Notwithstanding any other provision of law, the authority's
17 employees are subject to the same civil service provisions as the
18 employees of the City and County of San Francisco.

19 (e) Notwithstanding any other provision of law, the authority
20 shall follow the same competitive bidding procedures applicable
21 to redevelopment agencies in California.

22 (f) Prior to the board of supervisor's approval of a
23 redevelopment plan for the property, any contract to which the
24 authority is a party worth more than one million dollars
25 (\$1,000,000) or with a term of 10 or more years shall require the
26 approval of the Board of Supervisors of the City and County of
27 San Francisco.

28 (g) Due to the unique status of the existing housing units as set
29 forth in this chapter, which were formerly base housing and must
30 be removed, the authority is not required to comply with Section
31 33385 of the Health and Safety Code, as long as the authority
32 complies with all of the following alternative requirements:

33 (1) The authority shall consult with and obtain the advice of the
34 existing Treasure Island/Yerba Buena Island Citizens Advisory
35 Board, as created by Resolution No. 00-41-12/21 of the Treasure
36 Island Development Authority Board, concerning the adoption
37 and implementation of a redevelopment plan for Naval Station
38 Treasure Island.

39 (2) At least 120 days before the adoption of the Redevelopment
40 Plan for Naval Station Treasure Island, the authority shall amend

1 the membership composition of the Treasure Island/Yerba Buena
2 Island Citizens Advisory Board to include not less than four
3 specific slots for residents currently residing on Naval Station
4 Treasure Island, including slots designated for low- and
5 moderate-income residents.

6 (3) The authority shall hold at least one public meeting to
7 explain the new citizens advisory board composition. The authority
8 shall provide written notice of the public meeting explaining the
9 new citizens advisory board composition and the opportunity for
10 Naval Station Treasure Island residents to serve on the citizens
11 advisory board to all residents of Naval Station Treasure Island at
12 the time of the public meeting. The authority shall proscribe the
13 procedure for selection of the resident members of the citizens
14 advisory board, which shall require that the resident members of
15 the citizens advisory board be selected by a vote of the existing
16 residents of the Naval Station Treasure Island. All resident member
17 seats of the citizens advisory board added pursuant to this section
18 shall be filled no later than 60 days prior to the adoption of the
19 Redevelopment Plan for Naval Station Treasure Island. The
20 authority may, but is not required to, increase the size of the
21 citizens advisory board to include the resident members. The
22 authority is authorized and shall take any and all actions consistent
23 with this section to create specific slots for resident membership
24 on the citizens advisory board.

25 (4) Persons of low- and moderate-income lawfully occupying
26 the existing housing on Naval Station Treasure Island at the time
27 the Redevelopment Plan for Naval Station Treasure Island is
28 adopted, and at the time the existing housing is removed or
29 demolished, shall be offered new permanent housing adequate to
30 accommodate the household to be constructed within the
31 redevelopment project area, at a cost or rent not exceeding the
32 affordable housing costs or affordable rent, as defined by Section
33 50052.5 or 50053 of the Health and Safety Code, as applicable.
34 The redevelopment plan shall include provisions requiring the
35 authority to implement this subdivision.

36 SEC. 219. Section 2 of Chapter 235 of the Statutes of 2008 is
37 amended to read:

38 SEC. 2. The Legislature hereby finds and declares all of the
39 following:

1 (a) Section 81676.5 of the Education Code, by its own terms,
2 was to be repealed one year from the date that it became effective,
3 or when the California Supreme Court decision in 1st Street Books
4 v. Marin Community College District (1989) 208 Cal.App.3d 1275
5 was issued, whichever occurred last.

6 (b) Despite the sunset provision in Section 81676.5 of the
7 Education Code, it was never repealed.

8 (c) On August 1, 1996, in SEIU Local 715 v. Board of Trustees
9 of the West Valley Mission Community College District (1996)
10 47 Cal.App.4th 1661, 1667-1670, the California Court of Appeal
11 declared that Section 81676.5 of the Education Code, by its own
12 terms, had been repealed.

13 (d) This act is therefore declaratory of existing statutory and
14 case law.

15 SEC. 220. Section 65 of Chapter 758 of the Statutes of 2008
16 is amended to read:

17 SEC. 65. (a) Of the funds appropriated in Item 4265-111-0001
18 of Section 2.00 of the Budget Act of 2008 (Chapters 268 and 269
19 of the Statutes of 2008) from the Cigarette and Tobacco Products
20 Surtax Fund, twenty-four million eight hundred three thousand
21 dollars (\$24,803,000) shall be allocated in accordance with
22 subdivision (b) for the 2008–09 fiscal year from the following
23 accounts:

24 (1) Twenty-two million six hundred fifty-one thousand dollars
25 (\$22,651,000) from the Hospital Services Account.

26 (2) Two million one hundred fifty-two thousand dollars
27 (\$2,152,000) from the Physician Services Account.

28 (b) The funds specified in subdivision (a) shall be allocated
29 proportionately as follows:

30 (1) Twenty-two million three hundred twenty-four thousand
31 dollars (\$22,324,000) shall be administered and allocated for
32 distribution through the California Healthcare for Indigents
33 Program (CHIP) provided for pursuant to Chapter 5 (commencing
34 with Section 16940) of Part 4.7 of Division 9 of the Welfare and
35 Institutions Code.

36 (2) Two million four hundred seventy-nine thousand dollars
37 (\$2,479,000) shall be administered and allocated through the Rural
38 Health Services Program provided for pursuant to Chapter 4
39 (commencing with Section 16930) of Part 4.7 of Division 9 of the
40 Welfare and Institutions Code.

1 (c) (1) Funds allocated pursuant to this section from the
 2 Physician Services Account and the Hospital Services Account in
 3 the Cigarette and Tobacco Products Surtax Fund shall be used only
 4 for the reimbursement of physicians for losses incurred in providing
 5 uncompensated emergency services in general acute care hospitals
 6 providing basic, comprehensive, or standby emergency services,
 7 as defined in Section 16953 of the Welfare and Institutions Code.
 8 Funds shall be transferred to the Physician Services Account in
 9 the county’s Emergency Medical Services Fund established
 10 pursuant to Sections 16951 and 16952 of the Welfare and
 11 Institutions Code, and shall be paid only to physicians who directly
 12 provide emergency medical services to patients, based on claims
 13 submitted or a subsequent reconciliation of claims. Payments shall
 14 be made as provided in Article 3.5 (commencing with Section
 15 16951) of Chapter 5 of Part 4.7 of Division 9 of the Welfare and
 16 Institutions Code, and payments shall be made on an equitable
 17 basis, without preference to any particular physician or group of
 18 physicians.

19 (2) If a county has an Emergency Medical Services Fund
 20 Advisory Committee that includes both emergency physicians and
 21 emergency department oncall backup panel physicians, and if the
 22 committee unanimously approves, the administrator of the
 23 Emergency Medical Services Fund may create a special fee
 24 schedule and claims submission criteria for reimbursement for
 25 services rendered to uninsured trauma patients, provided that no
 26 more than 15 percent of the tobacco tax revenues allocated to the
 27 county’s Emergency Medical Services Fund is distributed through
 28 this special fee schedule, that all physicians who render trauma
 29 services are entitled to submit claims for reimbursement under this
 30 special fee schedule, and that no physician’s claim may be
 31 reimbursed at greater than 50 percent of losses under the special
 32 fee schedule.

33 SEC. 221. Section 3 is added to Chapter 635 of the Statutes of
 34 1999, to read:

35 SEC. 3. This act is an urgency statute necessary for the
 36 immediate preservation of the public peace, health, or safety within
 37 the meaning of Article IV of the Constitution and shall go into
 38 immediate effect. The facts constituting the necessity are:

39 In order to finally, fully, and expeditiously implement the voters’
 40 wishes in creating the county department of corrections, giving it

1 explicit direction to operate the county jails for all sentenced and
2 unsentenced prisoners under authority of the county board of
3 supervisors, it is necessary that this act take effect immediately.

4 SEC. 222. In connection with the repeals of the Chapter 590
5 versions of Sections 1373.65, 1373.95, and 1373.96 of the Health
6 and Safety Code, Chapter 591 of the Statutes of 2003 added
7 identical versions that remain in effect, except that Sections
8 1373.65 and 1373.96, as added by Chapter 591, were subsequently
9 amended by Chapter 164 of the Statutes of 2004.

10 SEC. 223. Any section of any act enacted by the Legislature
11 during the 2009 calendar year that takes effect on or before January
12 1, 2010, and that amends, amends and renumbers, adds, repeals
13 and adds, or repeals a section that is amended, amended and
14 renumbered, added, repealed and added, or repealed by this act,
15 shall prevail over this act, whether that act is enacted prior to, or
16 subsequent to, the enactment of this act. The repeal, or repeal and
17 addition, of any article, chapter, part, title, or division of any code
18 by this act shall not become operative if any section of any other
19 act that is enacted by the Legislature during the 2009 calendar year
20 and takes effect on or before January 1, 2010, amends, amends
21 and renumbers, adds, repeals and adds, or repeals any section
22 contained in that article, chapter, part, title, or division.